107

CHECK CASHING STORES: NECESSARY SERVICE OR EXCESSIVE PROFIT?

Y 4.G 74/7:C 41/4

ARING

Check Cashing Stores: Necessary Ser... FORE THE

HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 1448

TO ESTABLISH A LIMIT ON THE FEE WHICH CERTAIN PERSONS MAY CHARGE FOR CASHING CHECKS AND OTHER INSTRUMENTS, TO REQUIRE DEPOSITORY INSTITUTIONS TO CASH CHECKS ISSUED BY THE UNITED STATES OR A STATE, AND TO PROVIDE THAT CHECKS DRAWN BY THE FEDERAL GOVERNMENT MAY BE MAILED ONLY TO THE PERSONAL RESIDENCE OR PRIMARY PLACE OF BUSINESS OF THE PAYEE, TO A FEDERAL POST OFFICE BOX, OR TO A FEDERALLY INSURED DEPOSITORY INSTITUTION AT WHICH THE PAYEE HOLDS AN ACCOUNT

JUNE 29, 1993

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CHECK CASHING STORES: NECESSARY SERVICE OR EXCESSIVE PROFIT?

TUESDAY, JUNE 29, 1993

HOUSE OF REPRESENTATIVES,
HUMAN RESOURCES AND
INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2154, Rayburn House Office Building, Hon. Edolphus Towns (chairman of the subcommittee) presiding.

Present: Representatives Edolphus Towns, Thomas M. Barrett, Steven Schiff, and Stephen Horn.

Also present: Cherri L. Branson, professional staff member; Kimi Washington, clerk; and Martha B. Morgan, minority professional staff, Committee on Government Operations.

OPENING STATEMENT OF CHAIRMAN TOWNS

Mr. TOWNS. The Human Resources Subcommittee of the Government Operations Committee will now convene.

I am delighted to welcome our distinguished witnesses this morning to discuss the Check Cashing Act of 1993, as introduced by Mr. Fields and Mr. Wynn.

Check cashing outlets began to appear in the 1930's. The stock market crash forced Americans to seek other alternatives. Americans rapidly lost confidence in the banking system. This massive loss of confidence caused a chain reaction which led to the widespread bank closings all over the Nation. Check cashing stores began to emerge to fill the vacuum left by bank closings.

As the Nation began to recover, most check cashers became obsolete. In many communities, people who could not or would not open bank accounts, cashed checks with employers or local merchants.

Today, check cashing outlets are back. Some say their return is due to the recession. Others point to the bank deregulation of the 1980's and still others argue that with the fall of the savings and loan industry, we are in the midst of another loss of consumer confidence.

However, whatever the reason, the fact remains that banks have closed in the inner cities and in small towns all over this Nation. And as banks have withdrawn, check cashers have entered to fill the void. At last count, there were over 5,000 check cashing stores nationwide. These stores cash nearly 150 million checks with an aggregate face value of $45 billion; that is "B" as in baseball.

Because their fee structure is only regulated in seven States, by and large, they are able to charge fees based on what the market will bear. There is a void and they are filling it.

Let me also emphasize that the check cashers are offering services in areas that the banks have abandoned. It is curious to me that they can do so well where the banks have had marginal success and in some instances have failed.

This is why the Federal Government must seriously examine this industry to determine whether regulations are actually needed. I hope that today's hearing will shed light on the check cashing industry and the role that the Federal Government should play in this process.

At this time I would like to yield to the ranking member of the subcommittee, Mr. Schiff, of New Mexico, for opening statements or comments that he might have.

[The opening statement of Mr. Towns and the text of H.R. 1448 follow:]

COMMITTEE ON GOVERNMENT OPERATIONS

HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE

HEARING ON CHECK CASHING OUTLETS:
NECESSARY SERVICE OR EXCESSIVE PROFIT ?

JUNE 29, 1993

OPENING STATEMENT OF CHAIRMAN EDOLPHUS TOWNS

GOOD MORNING LADIES AND GENTLEMEN. IT IS A PLEASURE TO WELCOME OUR DISTINGUISHED WITNESSES HERE THIS MORNING TO DISCUSS THE CHECK CASHING ACT OF 1993, AS INTRODUCED BY MY COLLEAGUES, REP. CLEO FIELDS OF LOUISIANA AND REP. AL WYNN OF MARYLAND.

CHECK CASHING OUTLETS BEGAN TO APPEAR IN THE 1930'S. THE STOCK MARKET CRASH FORCED AMERICANS TO SEEK

OTHER ALTERNATIVES. AMERICANS RAPIDLY LOST CONFIDENCE IN THE BANKING SYSTEM. THIS MASS LOSS OF CONFIDENCE CAUSED A CHAIN REACTION WHICH LED TO WIDESPREAD BANK CLOSINGS ALL OVER THE NATION. CHECK CASHING STORES BEGAN TO EMERGE TO FILL THE VACUUM LEFT BY BANK CLOSINGS. AS THE NATION BEGAN TO RECOVER, MOST CHECK CASHERS BECAME OBSOLETE. IN MANY COMMUNITIES, PEOPLE WHO COULD NOT OR WOULD NOT OPEN BANK ACCOUNTS, CASHED CHECKS WITH EMPLOYERS OR LOCAL MERCHANTS.

TODAY, CHECK CASHING OUTLETS ARE BACK. SOME SAY THEIR RETURN IS TIES TO THE RECESSION, OTHERS POINT TO THE BANK DEREGULATION OF THE 1980'S AND STILL OTHERS ARGUE THAT WITH THE FALL OF THE SAVINGS AND LOAN

INDUSTRY, WE ARE IN THE MIDST OF ANOTHER LOSS OF CONSUMER CONFIDENCE. HOWEVER, WHATEVER THE REASON, THE FACT REMAINS THAT BANKS HAVE CLOSED IN THE INNER CITY AND IN SMALL TOWNS ALL OVER AMERICA. AND AS BANKS HAVE WITHDRAWN, CHECK CASHERS HAVE ENTERED TO FILL THE VOID. AT LAST COUNT, THERE WERE OVER 5,000 CHECK CASHING STORES NATIONWIDE. THESE STORES CASH NEARLY 150 MILLION CHECKS WITH AN AGGREGATE FACE VALUE OF $45 BILLION ANNUALLY. BECAUSE THEIR FEE STRUCTURE IS ONLY REGULATED IN SEVEN STATES, BY IN LARGE THEY ARE ABLE TO CHARGE FEES BASED ON WHAT THE MARKET WILL BEAR.

I FIND IT TROUBLING THAT THERE IS SO LITTLE REGULATORY OVERSIGHT ON THE STATE LEVEL AND I WONDER WHETHER THE LACK OF CONCERN HAS MORE TO DO WITH THE COMPOSITION

OF THE INDUSTRY'S CLIENTELE--LOW TO MODERATE INCOME PEOPLE WHO RELY ON STATE AND FEDERAL ENTITLEMENT AND BENEFIT CHECKS--THAN ON THE NECESSITY OR WISDOM OF A REGULATORY SCHEME.

CHECK CASHERS MAKE MONEY FROM CHECK CASHING FEES AND ADDITIONAL SERVICES SUCH AS SELLING MONEY ORDERS, MAKING WIRE TRANSFERS OF CHECKS, FORWARDING PHONE AND UTILITY BILL PAYMENTS, POST OFFICE BOX SERVICE AND INCOME TAX PREPARATION COMPLETE WITH RAPID REFUNDS. IN SOME STATES THE OUTLETS ARE PERMITTED TO SELL LOTTERY TICKETS AND PUBLIC TRANSPORTATION PASSES. IN NEW YORK AND ILLINOIS, CHECK CASHING OUTLETS ARE USED TO DISTRIBUTE AFDC BENEFITS. IN ADDITION TO THIS WIDE

ARRAY OF SERVICES, CHECK CASHING OUTLETS ARE USUALLY CONVENIENTLY LOCATED. MOST ARE OPEN AT NIGHT AND ON THE WEEKENDS. CURRENTLY, CHECK CASHING STORES ARE PRIMARILY LOCATED IN THE INNER CITY AREAS OF MAJOR URBAN CENTERS. HOWEVER, RECENT GROWTH IN THE INDUSTRY HAS BEEN IN MODERATE INCOME AND WORKING CLASS SUBURBAN NEIGHBORHOODS.

DESPITE THEIR CONVENIENT HOURS AND WIDE ARRAY OF SERVICES, THE CHECK CASHING OUTLETS DO NOT PROVIDE ANY FORM OF CONSUMER CREDIT, SUCH AS PERSONAL LOANS, HOME MORTGAGE LOAN OR CREDIT CARDS. THEY DO NOT OFFER CHECKING OR SAVINGS ACCOUNTS, CERTIFICATES OF DEPOSIT, MONEY MARKET ACCOUNTS OR ANY OTHER SERVICE WHICH

CONTRIBUTES TO THE GROWTH AND ECONOMIC DEVELOPMENT OF A COMMUNITY.

HOWEVER, LET ME EMPHASIZE THAT THE CHECK CASHERS ARE OFFERING SERVICES IN AREAS THAT THE BANKS HAVE ABANDONED. IT IS CURIOUS TO ME THAT THEY CAN DO SO WELL WHERE THE BANKS HAVE HAD MARGINAL SUCCESS.

THIS IS WHY THE FEDERAL GOVERNMENT MUST SERIOUSLY EXAMINE THIS INDUSTRY TO DETERMINE WHETHER REGULATION IS NECESSARY.

I HOPE THAT TODAY'S HEARING WILL SHED LIGHT ON THE CHECK CASHING INDUSTRY AND THE FEDERAL INVOLVEMENT IF ANY, IN THE INDUSTRY.

I

103D CONGRESS
1ST SESSION

H. R. 1448

To establish a limit on the fee which certain persons may charge for cashing checks and other instruments, to require depository institutions to cash checks issued by the United States or a State, and to provide that checks drawn by the Federal Government may be mailed only to the personal residence or primary place of business of the payee, to a Federal post office box, or to a federally insured depository institution at which the payee holds an account.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1993

Mr. FIELDS of Louisiana (for himself and Mr. WYNN) introduced the following bill; which was referred jointly to the Committees on Banking, Finance and Urban Affairs and Government Operations

---

A BILL

To establish a limit on the fee which certain persons may charge for cashing checks and other instruments, to require depository institutions to cash checks issued by the United States or a State, and to provide that checks drawn by the Federal Government may be mailed only to the personal residence or primary place of business of the payee, to a Federal post office box, or to a federally insured depository institution at which the payee holds an account.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Check Cashing Act of 1993".

SEC. 2. LICENSING AND REGULATION OF CHECK CASHING SERVICES.

(a) LICENSE REQUIREMENT.—A person, other than a depository institution, shall not engage in business in issuing, redeeming, or cashing checks, travellers' checks, money orders, or similar instruments, or of transmitting money, unless the person is licensed to engage in that activity by the Commission.

(b) LICENSING.—

(1) IN GENERAL.—The Commission may issue a license for engaging in an activity referred to in subsection (a) to any person that meets the requirements established under this section for such a license.

(2) REVIEW AND APPROVAL OF LICENSES.—Before issuing a license under this subsection, the Commission shall review and approve—

(A) the business record and the capital adequacy of the applicant; and

(B) the competence, experience, integrity, and financial ability of each individual who—

(i) is the applicant;

(ii) is a director, officer, or supervisory employee of the applicant; or

(iii) owns or controls the applicant.

(3) LIMITATIONS ON LICENSING.—The Commission may deny a license under this section to any applicant based on any—

(A) conviction of the applicant for any criminal activity;

(B) fraud or other act of personal dishonesty by the applicant;

(C) act, omission, or practice by the applicant which constitutes a breach of fiduciary duty; or

(D) suspension or removal of the applicant, by any agency or department of the United States or any State, from participation in the conduct of any federally or State license or regulated business.

(4) REVOCATION OF LICENSE.—A license under this section may be revoked by the Commission if the holder of the license—

(A) engages in any activity for which issuance of the license may be denied under paragraph (3);

(B) imposes, charges, or collects a fee in excess of the amount permissible under section 3; or

(C) violates any regulation issued under this section by the Commission.

(c) PENALTY.—Any person who violates subsection (a) shall be liable for a civil penalty of not more than $500,000, to be assessed by the Commission.

(d) REGULATIONS.—Not later than 9 months after the date of the enactment of this Act, the Commission shall issue regulations which implement this section, including regulations which—

(1) establish requirements for applying for a license under this section; and

(2) establish such other requirements relating to activities for which a license is required under this section as the Commission considers appropriate.

(e) EFFECTIVE DATE.—This section (except subsection (d)) shall take effect on the date which is 9 months after the date of the enactment of this Act.

SEC. 3. LIMITATION ON FEE CHARGED FOR CHECK CASHING.

(a) LIMITATION.—A person that regularly engages in the business of cashing checks, travelers' checks, money

orders, or similar instruments, shall not charge any fee for cashing such an instrument that exceeds the greater of $0.50 or 0.85 percent of the amount of the instrument.

(b) CIVIL PENALTY.—A person that violates subsection (a) shall be liable for a civil penalty of not more than $500,000, to be assessed by the Federal Trade Commission.

SEC. 4. PROHIBITION ON REFUSAL BY DEPOSITORY INSTITUTION TO CASH GOVERNMENT CHECKS.

(a) PROHIBITION.—A depository institution shall not refuse to cash a government check if—

(1) the check is presented for cashing by an individual who is the payee of the check; and

(2) the individual who presents the check for cashing provides sufficient identification.

(b) CIVIL PENALTY.—A person that violates subsection (a) shall be liable for a civil penalty of not more than $500,000.

(c) ENFORCEMENT.—The requirements of this section shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of the Federal Reserve; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union; and

(4) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal

land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

SEC. 5. REQUIREMENT THAT CHECKS DRAWN BY FEDERAL AGENCIES BE MAILED ONLY TO CERTAIN ADDRESSES.

(a) IN GENERAL.—A government check that is issued by the United States or an agency of the United States and that is mailed by such an agency to the payee of the check may be mailed only to—

(1) the residence of the payee;

(2) the principal place of business of the payee;

(3) a post office box of the payee at a United States Postal Service facility; or

(4) an account of the payee at an insured depository institution.

(b) APPLICATION.—Subsection (a) shall apply to checks mailed after the date which is 9 months after the date of the enactment of this Act.

(c) REGULATIONS.—Not later than 2 months after the date of the enactment of this Act, the Secretary of the Treasury shall issue regulations implementing this section.

SEC. 6. STUDY OF DEBIT CARD SYSTEM OF BENEFIT PAYMENTS AND BENEFIT CHECK DELIVERY.

Not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study and submit a report to the Congress on—

(1) the effects of requiring the use of a debit card system for making all benefit payments by the Federal Government; and

(2) other innovative ways to enhance and upgrade the current methods by which the Federal Government delivers benefit payment checks.

SEC. 7. DEFINITIONS.

(a) IN GENERAL.—As used in this Act—

(1) the term "Commission" means the Federal Trade Commission;

(2) the term "depository institution" has the meaning given that term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(3) the term "government check" means any check which was issued by—

(A) the United States, any State, or any agency of the United States; or

(B) any agency of the State in which the check is presented for cashing purposes, any

unit of local government of such State, or any agency of any such unit of local government;

(4) the term "insured depository institution" has the meaning given that term in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)); and

(5) the term "sufficient identification" means—

(A) a driver's license;

(B) an identification card issued by a State or Federal agency; or

(C) a United States passport.

(b) TERMS RELATING TO ENFORCEMENT OF SECTION 3.—A term used in section 3(c)(1) that is not defined in this Act shall have the meaning given that term by—

(1) section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)); or

(2) in the case of a term not defined in the Act referred to in paragraph (1), section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

o

Mr. SCHIFF. Thank you, Mr. Chairman. Because we have two colleagues, I will be exceedingly brief. I just want to compliment you on holding this hearing, first of all, because it is an important subject with strong implications around the Nation.

More importantly, I want to compliment you for titling this hearing, "Hearing on check cashing stores, necessary service or excessive profit?" because, indeed, there is an argument that runs both ways. There is an argument that says in some way excessive charges are being made by check cashing institutions; on the other hand, there is an argument that they provide a service that is not provided anywhere else and, in fact, that the people of certain communities would not have any service if these particular facilities did not exist.

So I appreciate your presenting this hearing as a balanced inquiry into the issue and with a panel of witnesses on all different sides of the industry or related industry so we will get a very fair, I think, representation of what the situation is.

With that, Mr. Chairman, I yield back.

Mr. TOWNS. Thank you very much for your comments and we are going to move right along because we do have two colleagues. We are delighted to have Congressman Wynn from Maryland and Congressman Fields from Louisiana, who are actually the authors of this legislation.

Let me say I know both of you know the rules and your entire statement will be included in the record, and if you can summarize it; you will make a decision as to who will go first.

Let me also at this time request unanimous consent that the statement of our colleague from New Jersey, Mr. Payne, be included in the record.

[The prepared statement of Mr. Payne follows:]

Hearing--Opening Statement
Rep. Donald Payne (NJ-10th)
June 29, 1993

"Check Cashing Stores--
Necessary Service or Excessive Profit?"

Good Morning. I want first to commend the Chairman for calling this hearing on this very important subject. I want to thank the witnesses for their testimony today, especially the distinguished gentlemen, Rep. Wynn, from Maryland and Rep. Fields of Louisiana. They have agreed to provide us with their very important testimony about their proposal which would place some legislative restraints on this rapidly expanding industry.

Anyone who has ever ventured into a low income neighborhood knows that residents in these communities have very few options for business exchange, few or no grocery stores, and few banks. The banking deregulation of the 80s and the recession led to an abandonment of inner city communities by banks. There is data available to support this assertion. And check cashing outlets filled in the gaps in these communities.

In NY, check cashing outlets work in conjunction with the local government and are allowed to distribute AFDC benefits, automobile titles and registration. The local credit unions and banks are not allowed to do this.

Critics of the industry argue that the additional services extended to the check cashing outlets foster a relationship of dependence on an unconventional system, one that has no interest in investing in the community. Also, that the existence of the check cashing industry further stratifies (strat-if-eyes) the range of services that are available to people based on their socio-economic status.

In the last twelve years, there have been some major changes in the industry and these establishments are no longer confined to the poor inner city communities.

The emergence of check cashing outlets in moderate income neighborhoods and near military bases are another consequence of the recession and banking deregulation of the 80s. Recently, articles have appeared in a number of publications that tells of the benefits and the opportunities in opening up a check cashing outlet.

Mr. Chairman, I want to thank you for convening this hearing on this very important subject and I look forward to the testimony of our witnesses.

STATEMENT OF HON. CLEO FIELDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. FIELDS. Mr. Chairman, first of all, I want to thank you very much for holding this hearing and I want to thank the members of the committee for being here. Mr. Chairman, if it is OK with the committee, I will simply submit my statement for the record and summarize at this point.

Mr. TOWNS. Without objection.

Mr. FIELDS. Mr. Chairman, you are absolutely right and you made some very important points that I made in my remarks to the committee. The check cashing industry started back in the 1930's when the banking industry had problems, and as a result of that the banks were closing, as well hours were limited, until people reverted to other alternatives of cashing their checks.

The growth since such time has been tremendous. Just to give a few percentages in States across the country: Since the 1930's, there has been an 80 percent growth in Texas; an 85 percent growth in check cashing outlets in Florida; an 87 percent growth in Washington, DC, right here in the Capitol city; a 96 percent growth in Missouri; a 195 percent growth in Georgia; and 293 percent growth in North Carolina.

According to the economic review, it states that check cashing outlets, many of them who are not regulated by State government or by any regulatory agency, charge anywhere from 1 to 20 percent. That is 1 to 20 percent of an individual's check.

Many people who use these outlets are individuals who do not have relationships with financial institutions and the reason they don't largely, in part, is because many financial institutions charge a minimum balance requirement for savings accounts and also charge a checking fee on a monthly basis.

If you take a person who is living paycheck to paycheck, Mr. Chairman and members of the committee, it is very difficult for them to pay a minimum balance requirement if they have a savings account. First of all, they do not have any savings to save; and second, they cannot pay the checking fees that many financial institutions have in order to keep a checking account.

So, therefore, they find themselves on a Friday evening walking into a check cashing outlet, cashing their check. As a result, many of them are charged excessive fees, and that is 20 percent of their check less for groceries, clothing, and other items.

The average fee is 1.75 percent. You are absolutely right there are over 5,000 check cashing outlets across this country. This legislation the Check Cashing Act of 1993, is in no way, shape, form, or fashion to destroy or to do away with the check cashing industry, because I must admit, it is a service that is needed in this country. But I do think there needs to be some regulation, because I think in all systems there are individuals, when they are not regulated properly, who abuse a system, and I think 20 percent is absolutely unconscionable.

About 150 million checks are cashed each year totaling about $45 billion on face value. This bill, H.R. 1448, first of all, provides the FTC, the Federal Trade Commission, as a licensing agency for check cashing outlets across the country. It also sets a fee at 0.85 percent, or 50 cents, whichever is the highest, and banks under

this legislation will cash government checks with proper identification.

Many individuals who are recipients of government checks, have to go to check cashing outlets to cash their checks, social security checks, and some outlets are charging as much as 10 to 15 percent. Banks' also. The GAO will research innovative ways to deliver government benefits.

My colleague, Mr. Wynn, who is the original coauthor of this legislation, also would like to make remarks, but I would like to enumerate a few States, Mr. Chairman, if I may, who are regulating the check cashing industry today. I am not one who wishes to overburden the private sector, because I do believe in the free enterprise system, but I also understand there is a need for regulation when there are individuals who are engaged in a system of unfairness.

In Connecticut, they saw fit to pass legislation in their State and the legal ceiling rate in Connecticut is 2 percent for nonpublic aid checks and 1 percent for State public aid checks, and that was passed in 1990. In Delaware the ceiling is 9 percent, or $4, whichever is greater. That ceiling was set in 1989.

As you can see, there is a trend in the late eighties and going into the nineties of regulating the check cashing industry because of the cry from the public of some charging excessive fees.

In Georgia, they charge $5, or 3 percent of public aid checks, and 10 percent for personal checks, and 5 percent on all other checks, payroll and otherwise. That ceiling was set in 1990. In Illinois, the ceiling was set at 1.2 percent plus 0.9 percent, and that ceiling was set in 1986. The previous rate was 1.1 percent plus 0.75 percent, whichever was greater.

In Minnesota, the rate was set at 2.5 percent for public aid checks above $500, 5 percent for a first-time customer, no limit on personal checks, which meant they could charge whatever they so desired, but they must file with the Department of Commerce, which was a good gesture in my opinion. And the Department of Commerce defined what fee was, a reasonable fee, and they would determine whether or not a fee that an outlet charged was in fact reasonable.

The last two: New Jersey, 1 percent in-state checks, 1.5 percent out-of-state checks. That ceiling was set in 1979. And last, in New York, which is the lowest of all of the rates, Mr. Chairman and members, New York set the rate at 0.9 percent or 50 cents, whichever is greater, and that ceiling was set in 1988.

So as you can see, Mr. Chairman and members of the committee, there has been a lot of discussion and many State legislatures have taken it upon themselves to regulate the check cashing industry.

I yield back to you, Mr. Chairman.

[The prepared statement of Mr. Fields follows:]

STATEMENT FOR THE RECORD

BY

CONGRESSMAN CLEO FIELDS

U.S. HOUSE OF REPRESENTATIVES

BEFORE THE SUBCOMMITTEE ON HUMAN RESOURCES

AND INTERGOVERNMENTAL RELATIONS

COMMITTEE ON GOVERNMENT OPERATIONS

JUNE 29, 1993

GOOD MORNING MR. CHAIRMAN. I WOULD LIKE TO THANK YOU FOR HOLDING THIS HEARING CONCERNING THE CHECK CASHING INDUSTRY AND H.R. 1448. AS YOU KNOW, I REPRESENT THE 4TH DISTRICT OF LOUISIANA, THE SECOND POOREST DISTRICT IN THE COUNTRY, ACCORDING TO RECENT CENSUS REPORTS. I GREW UP IN THIS AREA OF THE COUNTRY, SO I AM VERY MUCH AWARE OF THE SERVICES CHECK CASHING OUTLETS PROVIDE. I KNOW FIRST HAND THAT MANY LOW INCOME INDIVIDUALS UTILIZE THESE STORES TO CASH CHECKS. THE FEE TO DO SO IS OFTEN HIGHER THAN WHAT BANKS CHARGE FOR THE SAME SERVICE. THEREFORE, I HAVE INTRODUCED H.R. 1448, "THE CHECK CASHING ACT OF 1993". I BELIEVE THIS BILL WILL HELP MANY WORKING PEOPLE IN MY DISTRICT AND ACROSS THE COUNTRY HOLD ON TO MORE OF THEIR WAGES. MANY LOW INCOME PEOPLE WHO WORK VERY HARD FOR THEIR LOW WAGES DO NOT DO BUSINESS WITH FINANCIAL INSTITUTIONS, RATHER THEY FREQUENT CHECK CASHING OUTLETS. ACCORDING TO THE ECONOMIC REVIEW THESE OUTLETS CHARGE ANYWHERE FROM 1 TO 20 PERCENT TO CASH A CHECK. 20 PERCENT! THAT MEANS SOMEONE WITH A CHECK FOR 300 DOLLARS, IS BEING CHARGED UP TO 60 DOLLARS SIMPLY TO GAIN ACCESS TO THEIR HARD-EARNED CASH. THAT'S 60 DOLLARS LESS FOR FOOD, RENT, TRANSPORTATION, CLOTHING AND OTHER EXPENSES NECESSARY TO MAINTAIN A HOUSEHOLD. PEOPLE THAT ARE LIVING FROM CHECK TO CHECK SIMPLY MUST HAVE THEIR CASH RIGHT AWAY. MANY PEOPLE LIVING CHECK TO CHECK CAN'T AFFORD TO WAIT FOR FINANCIAL INSTITUTIONS TO CLEAR CHECKS AND CAN'T AFFORD TO SUSTAIN THE MINIMUM BALANCE REQUIRED FOR CHECKING ACCOUNTS AT BANKS. THIS HAS FORCED MANY PEOPLE TO RELY ON CHECK CASHING CENTERS FOR THEIR FINANCIAL SERVICES. OF COURSE, THIS RELIANCE HAS LEFT A DENT IN THE BUDGETS OF MANY POOR

INDIVIDUALS AS WELL AS MANY MODERATE INCOME INDIVIDUALS EACH WEEK. THE CHECK CASHING INDUSTRY BEGAN IN THE 1930'S AS A RESPONSE TO BANKING PROBLEMS DURING THE DEPRESSION. THIS SERVICE HAS CONTINUED TO GROW AS A RESULT OF THE BANKING INDUSTRY CLOSING BRANCHES IN INNER CITIES AND THE OFTEN INCONVENIENT HOURS BANKS ARE OPEN FOR BUSINESS. CHECK CASHING INSTITUTIONS HAVE PLAYED A LARGE ROLE IN INNER CITIES AND IN LOW INCOME AREAS. NOW THEY ARE BEGINNING TO PLAY A ROLE IN SUBURBAN AND RURAL AMERICA. THIS INDUSTRY IS GROWING BY LEAPS AND BOUNDS. STATISTICS FROM THE ECONOMIC REVIEW INDICATE THAT BETWEEN 1988 AND 1991, CHECK CASHING OUTLETS GREW BY 80 PERCENT IN TEXAS, 85 PERCENT IN FLORIDA, 87 PERCENT IN THE STATE OF WASHINGTON, 96 PERCENT IN MISSOURI, 195 PERCENT IN GEORGIA AND 293 PERCENT IN NORTH CAROLINA. AT PRESENT, ESTIMATES BY THE NATIONAL CHECK CASHERS ASSOCIATION PUT THE NUMBER OF CENTERS AT 4,500. EACH YEAR OUTLETS CASH CLOSE TO 150 MILLION CHECKS. THESE CHECKS TOTAL OVER $45 BILLION. RAPID GROWTH CONTINUES, BUT VIRTUALLY NO REGULATION HAS BEEN SET TO MAKE SURE CONSUMERS ARE RECEIVING FAIR SERVICE. MY BILL SEEKS TO REMEDY THIS, BY PROVIDING A SOLUTION THAT WILL PROTECT THE CONSUMER. I DO NOT WISH TO PUT LEGITIMATE BUSINESSES OUT OF SERVICE. MY ONLY INTENT IS TO ENSURE THAT INDIVIDUALS RECEIVE HONEST AND FAIR SERVICE.

THE FIRST PART OF H.R. 1448 WOULD REQUIRE PERSONS ENGAGING IN THE BUSINESS OF CHECK CASHING TO RECEIVE A LICENSE FROM THE FEDERAL TRADE COMMISSION. ALONG WITH THIS RESPONSIBILITY, THE FTC WOULD ALSO BE RESPONSIBLE FOR FINING ANYONE NOT ABIDING BY THE SET FORTH

REGULATIONS UP TO $500,000. THIS CRITERIA IS SET FORTH BY H.R. 1448 TO OVERSEE THE INDUSTRY. THE CHECK CASHING INDUSTRY IS SUSPECTED OF HAVING "BAD EGGS" THAT LAUNDER MONEY AND CHARGE EXCESSIVE FEES. THIS BILL SETS CONTROLS TO PROVIDE FOR THE RESPONSIBLE ACTION OF ALL CHECK CASHING OUTLETS. WE NEED DETAILED INFORMATION ON THOSE BUSINESSES PROVIDING THIS SERVICE TO ENSURE THEY ARE LEGITIMATE. WE WANT TO PROTECT THOSE LOW TO MODERATE INCOME INDIVIDUALS WHO DO CHOOSE TO USE CHECK CASHING OUTLETS. WE KNOW THIS INDUSTRY IS NEEDED AND WE DON'T WANT TO PUT THOSE WHO PROVIDE GOOD SERVICES TO THE COMMUNITY OUT OF BUSINESS. THE NUMBERS SHOW THAT CHECK CASHING CENTERS EARN A HEALTHY PROFIT. IN 1990, THE CHECK CASHING INDUSTRY EARNED CLOSE TO $790 MILLION. THESE NEW REGULATIONS WOULD NOT HURT THE INDUSTRY, BUT THEY WILL PROTECT THE MANY LOW INCOME INDIVIDUALS WHO CASH CHECKS EACH YEAR.

THE SECOND PART OF "THE CHECK CASHING ACT OF 1993" WOULD SET A MAXIMUM FEE FOR ANYONE ENGAGING IN THE BUSINESS OF CASHING GOVERNMENT CHECKS. THE FEE SET BY THIS BILL WOULD BE .85 PERCENT OR 50 CENTS, WHICHEVER IS GREATER. THE REASON FOR THIS FEE IS TO CAP THE RATE WHICH CHECK CASHERS CAN CHARGE CONSUMERS TO CASH CHECKS. THE FEES CURRENTLY CHARGED RANGE FROM BELOW .9 PERCENT IN NEW YORK TO 20 PERCENT IN OTHER AREAS OF THE COUNTRY. THESE FEES VARY IN DIFFERENT REGIONS OF THE COUNTRY, BUT TEND TO AVERAGE 1.75 PERCENT. THERE ARE A HAND FULL OF STATES ACROSS THE COUNTRY THAT ALREADY REGULATE THE CHECK CASHING INDUSTRY. THESE STATES INCLUDE NEW YORK WHICH SETS A RATE OF .9 PERCENT OR 50 CENTS. OTHER

REGULATED STATES SUCH AS GEORGIA, CONNECTICUT, MINNESOTA, AND ILLINOIS SET CAPS AT SLIGHTLY HIGHER RATES. THE FEES SET BY THESE STATES ARE THE FIRST STEP IN TAKING ACTION TO PROTECT THE CONSUMER FROM OVERWHELMING FEES. I FEEL THAT SETTING A FEE IS SOMETHING THAT NEEDS TO BE DONE. AND AS I STATED IN MEETINGS WITH REPRESENTATIVES OF CHECK CASHING INSTITUTIONS, I AM WILLING TO CONTINUE TO LOOK AT WAYS AND AT RATES FEES SHOULD BE SET IN ORDER TO MEET THE NEEDS OF THE CONSUMER. TO DATE CHECK CASHING OUTLETS PROVIDE LITTLE MORE TO THE COMMUNITY THAN CHECK CASHING SERVICES. SOME OF THE OUTLETS, IN ESSENCE, PREY ON THE COMMUNITY, MAKING MILLIONS OF DOLLARS CASHING CHECKS. ECONOMIC REVIEW SHOWS THAT SURVEYS SUGGEST THAT THE MAJORITY OF INDIVIDUALS USING CHECK CASHING OUTLETS ARE "YOUNG, NONWHITE, AND DO NOT HAVE BANK ACCOUNTS."

ALSO, SUFFERING ARE THOSE WHO RECEIVE GOVERNMENT ASSISTANCE CHECKS FROM THE STATE OR FEDERAL GOVERNMENT. THE GOVERNMENT, IN A SENSE, IS PAYING THE CHECK CASHERS TO CASH A CHECK THAT THE UNITED STATES GOVERNMENT STANDS BEHIND. THAT SHOULD BE ENOUGH FOR ANY FINANCIAL INSTITUTION, BUT IT IS NOT. TODAY, SOME BANKS WILL NOT CASH A GOVERNMENT CHECK UNLESS THE PAYEE IS AN ACCOUNT HOLDER. H.R. 1448 LOOKS TO REMEDY THIS SITUATION BY PUTTING INTO LAW, A STATEMENT THAT CALLS FOR ALL FINANCIAL INSTITUTIONS TO CASH GOVERNMENT CHECKS. ANYONE WHO RECEIVES ASSISTANCE FROM THE GOVERNMENT OUGHT TO BE ABLE TO CASH A GOVERNMENT CHECK WITH SUFFICIENT IDENTIFICATION. I ASK YOU TO THINK ABOUT THAT. WHY WOULD A

FINANCIAL INSTITUTION IN THE UNITED STATES NOT CASH A CHECK THAT THE UNITED STATES GOVERNMENT STANDS BEHIND?

THE FINAL SECTIONS OF H.R. 1448 WOULD REQUIRE THAT UNITED STATES GOVERNMENT ASSISTANCE CHECKS BE MAILED TO THE PAYEE'S RESIDENCE, PLACE OF BUSINESS, UNITED STATES POST OFFICE BOX, OR AN ACCOUNT AT AN INSURED DEPOSITORY INSTITUTION. AT PRESENT, SOME CHECK CASHING OUTLETS DIRECTLY RECEIVE GOVERNMENT CHECKS ADDRESSED TO PAYEES. THIS IS PROVIDED AS AN "ADDITIONAL SERVICE" TO IT'S COSTUMERS. I BELIEVE THIS SERVICE COULD AFFECT THE PAYEE'S DECISION MAKING ABILITY. WE NEED TO STAND UP FOR THE POVERTY STRICKEN, AND THE GOVERNMENT ASSISTED WHO MAY NOT BE ABLE TO MAKE PRUDENT DECISIONS CONCERNING THEIR FINANCES.

A SYSTEM NEEDS TO BE DEVISED THAT WILL REDUCE THE RISK OF DELIVERY OF GOVERNMENT BENEFITS. TO DEAL WITH THIS, H.R. 1448, TAKES US ONE STEP CLOSER BY PROVIDING THAT THE GENERAL ACCOUNTING OFFICE CONDUCT A STUDY OF THE EFFECTS OF A DEBIT CARD SYSTEM ON THE DELIVERY OF FEDERAL BENEFITS. OTHER INNOVATIVE FORMS OF DELIVERY ARE ALSO TO BE RESEARCHED. WE NEED TO INVESTIGATE THE WAY OUR GOVERNMENT FUNDS ARE DELIVERED. THE PEOPLE WHO RECEIVE FUNDS ARE IN NEED OF HELP.

WE NEED TO FOCUS ON THE CONSUMER AND THE CONSUMERS' NEEDS. CHECK CASHING OUTLETS, AS A WHOLE, MAY VERY WELL PROVIDE A NEEDED SERVICE IN COMMUNITIES. BUT WE MUST RID THE INDUSTRY OF THOSE WHOSE INTENT

LIES ELSEWHERE. I INTRODUCED H.R. 1448 TO DO JUST THAT. AN INDUSTRY THAT WORKS SO CLOSELY WITH CONSUMER FINANCES SHOULD VOLUNTARILY PROVIDE LICENSING INFORMATION AND BE WILLING TO PROVIDE A CHECK CASHING SERVICE AT A REASONABLE RATE. THE INDUSTRY IS ONE THAT IS GROWING AND EXPANDING. IT IS NOT ONLY IN THE POOR, INNER CITIES, IT IS BRANCHING OUT, INTO THE SUBURBS, AND INTO RURAL AREAS. WE NEED TO MAKE SURE THAT THE TRADITIONAL USERS, AS WELL AS THE MODERATE INCOME USERS GET A FAIR RATE FOR THE SERVICE OF CHECK CASHING. CHECK CASHERS SAY THAT THEY ARE EXPANDING, BUILDING, AND THAT THEIR CUSTOMER BASE IS BROADENING. THIS BUSINESS IS LARGELY CULTIVATED AROUND THE INNER CITIES. I HOPE THAT THIS INSIGHT INTO THE CHECK CASHING INDUSTRY AND H.R. 1448 HAS OFFERED YOU THE INFORMATION NEEDED TO MAKE THE NECESSARY DECISIONS CONCERNING CHECK CASHING OUTLETS.

MR. CHAIRMAN, AGAIN, I WOULD LIKE TO THANK YOU FOR HOLDING THIS HEARING CONCERNING THE CHECK CASHING INDUSTRY AND H.R. 1448. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU OR THE SUBCOMMITTEE MEMBERS HAVE IN RELATION TO H.R. 1448. HOWEVER, DUE TO A PREVIOUSLY SCHEDULED MEETING, I WILL HAVE TO LEAVE IMMEDIATELY FOLLOWING THIS STATEMENT. PLEASE FEEL FREE TO CONTACT ME IF YOU HAVE ANY QUESTIONS.

Mr. TOWNS. Thank you very much, Congressman Fields and Congressman Wynn.

STATEMENT OF HON. ALBERT R. WYNN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. WYNN. Thank you, very much, Mr. Chairman and members of the committee. I appreciate this opportunity to come before you this morning to comment very briefly on this important issue. I also want to thank my colleague, Congressman Fields, for allowing me to join with him in sponsoring this bill.

I think his testimony has really been very thorough, so I will not repeat that. I would like to make a couple of comments regarding how I analyzed this problem.

It seems to me the problem began really in the 1980's with the deregulation of the industry, and that caused a couple of competitive forces to come into play. The Federal Reserve began to charge more for its services. In turn, individual banks began to charge more, and the structure was set up in which the banks attempted to attract high yielding, low-volume accounts and they offered attractive rates for these accounts.

At the same time, they raised fees on the low end of the scale in terms of those people that had low balances and high volume, the people who came in on essentially a weekly basis to transact business.

That compounded the problem, because the poorest of the poor began to see their rates rise. This was compounded by the fact that services that were previously not charged for were now being charged.

So you had a situation in which poor people essentially were being frozen out of the market. One other factor intervened and that is in this particular deregulated climate banks began to move into wealthier communities, more upper and middle income communities and away from poor communities. So we find ourselves in a situation when many banks in fact closed in poor urban communities, as well as in many rural communities. The result was that the poor had essentially nowhere to go.

The second competitive force was the emergence of the check cashing industry to supposedly fill this void. As has been indicated by my colleague, unfortunately, this resulted in exorbitant fees. I have, for example, a constituent who attempted to cash a $500 check and was charged $50. We don't think this is fair. We understand that there have to be reasonable fees, but we do feel there is a problem when the gouging appears to occur on the low end of the scale.

The argument has been made, well, there are higher security costs and things like this, but the net result is the people who can least afford it are, in fact, paying more. On the average, it costs about $65,000 to startup a check cashing business, but the net profits range from $75,000 to $100,000 in the first year. I have no quarrel with the profitmaking motive, but I do have a concern when this profitmaking motive results in a disservice to the poor.

The market is in fact not working and that is why we are here today. We believe that there has to be some regulatory scheme that

addresses this concern so that companies that do come in to underserved communities serve these communities in a fair way.

The second component of the bill, dealing with the cashing of government checks, is particularly important to me. I represent a district that has more Federal employees than any other district in the United States. We have 72,000 Federal employees.

My concern is essentially this: in addition to employee checks, you have social security checks, other benefit checks which are backed by the full faith and credit of the U.S. Government. These are the checks least likely to present a problem to a financial institution.

Therefore, it seems highly contradictory that these checks would be rejected or not, that the patron would not be allowed to cash the check at the institution. I am very pleased this bill addresses this concern by requiring banks to accept these checks regardless of whether the depositor has a relationship with the bank.

I believe it is essential that Federal Government checks can be cashed by the recipient in a timely, efficient manner without being gouged. I believe this bill addresses these concerns. The absence of market forces with respect to check cashing and also the failure of the banks to acknowledge and cash Federal checks which are certainly very secure and present a relatively small problem of fraud.

I would conclude with that, Mr. Chairman, and again thank you and the committee members for allowing me to comment on this legislation.

[The prepared statement of Mr. Wynn follows:]

TESTIMONY OF REPRESENTATIVE ALBERT WYNN, (D-MD)

BEFORE THE

GOVERNMENT OPERATIONS

SUBCOMMITTEE ON HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS

ON H.R. 1448, THE "CHECK CASHING ACT OF 1993"

June 29, 1993

Good morning Mr. Chairman and members of the Committee. Thank you for giving me this opportunity to speak before the subcommittee on the topic of Check Cashing stores and legislation that I am co-sponsoring with my colleague, Representative Cleo Fields of Louisiana.

Check cashing outlets are a common sight in many inner city and low-income communities, and they are becoming a more familiar sight in our rural areas. In fact, there are at least 5000 Check Cashing stores in the United States, which is more than double the number in 1987. The reason dates to the early 1980s, when the federal government enacted the Depository Institutions Deregulation and Monetary Control Act. This act required the Federal Reserve to charged for services that used to be free. As a result, banks lowered fees for the wealthier customers while increasing the charges on depositors with small balances. So simple services, like cashing a check and maintaining a checking and savings account began to cost more for the low to middle-income customer.

Many banks in inner city neighborhoods closed, in order to do business in the wealthier parts of town. Many low- and moderate-income customers followed by closing bank accounts, paying bills in cash, and utilizing Check Cashing stores on payday.

What is the problem with these facilities? They charge too much for one thing, from .9% to 6% of the value of each check. For a hundred dollar check, that's a charge of up to $6.00, which can add up over a year. Just the other day I heard about a person in my district, Prince George's County, who went to a Check Cashing Outlet to cash a $500.00 check. The clerk charged him $30. In states where these facilities are unregulated, the charge is often left up to who is running the cash register that day.

Another problem is one of fairness. Many Check Cashers operate in minority and low-income communities, and say their exorbitant fees are based on higher security and insurance costs. They say they are providing a needed service, but is it fair that these customers pay the price? These check cashing facilities do not give anything back to the communities they serve, while they take more than their fair share. On average, it costs $65,000 to start up a Check Cashing business and net profits can range from $75,000 to $100,000 in the first year of operation. This is more than most small businesses make.

I believe we need appropriate regulation of these monopolies, which are gouging poor, minority residents, the very customers they say they are serving. The "Check Cashing Act of 1993" would make a couple of changes, and not just to the Check Cashing industry. Number one: it would require banks to cash state and federal government checks, free of charge. This would include paychecks, tax refunds, social services checks, etc. These are government checks, backed by the full faith and credit of the federal government, and not subject to fraud. Right now, however, it is almost impossible to cash a government check at a bank where you are not a depositor. Under the provision of this act, if banks fail to provide this service, they could be fined up to $500,000.

This bill would also limit what Check Cashers could charge for their service to .85% of the face value of the check, or 50 cents, whichever is greater. Potential vendors would need to apply to the Federal Trade Commission for a license. Right now, only eight states regulate these business, and even in those states, there is rampant abuse in the industry.

The bill simply says there should be an across-the-board fee structure put in place for these unregulated institutions. It is my hope this legislation will also encourage a better relationship between Check Cashers and banks.

Thank Mr. Chairman.

Mr. TOWNS. Thank you very much, Mr. Wynn, and we thank you and Congressman Fields both for your very well thought-out testimony. I think that I agree with you that something needs to be done.

Let me begin by saying, first of all, this is basically an unregulated industry. As you indicate, there are only seven States that have regulations. Do you think by regulating it, it will stop the growth of the industry?

Mr. FIELDS. The growth?

Mr. TOWNS. Yes.

Mr. FIELDS. I don't think so. Mr. Chairman, we researched the profit of this business. You talk about an industry that earns close to $790 million. And that was last year's accounting; $790 million.

If you compare the States that started regulation of the check cashing industry, there was not a move away from the check cashing business in Connecticut, in Delaware, in Georgia and Illinois, even in New York, who has the lowest rate among the seven. As a matter of fact, there are check cashing industries that are opening up now in New York. So I don't think it is going to run people away from the check cashing industry, because it is still a profitable business, even if you look at the fees as low as 0.9 percent.

Mr. TOWNS. From the facts we have been able to collect for this hearing, the check cashers are serving areas which are largely unserved by the banks. Have you found any evidence to support that belief, nationally or in your district?

Mr. FIELDS. I think largely in part the check cashing industry—and some in the industry will dispute this account—there has been a big trend of check cashers locating in inner cities and in poor neighborhoods because people with lower incomes are least likely to have relationships with financial institutions. Therefore, they are easy prey, for lack of a better word, for the check cashing industry, which, I must admit, Mr. Chairman, is a very viable and a necessary business in my opinion in this country and in every community across the country.

But because they are so needed, is one of the reasons why they should be regulated, so that they are not charging for example 20 percent, $300, paying $60, $60 less for food because most people who use them are people who are in fact low income individuals who do not have a relationship with financial institutions.

The other argument I must make, and that is the argument on the other side, is that there is a lot of service to people who in fact have relationships with banks because of the convenience, and I do agree with that, but just because a person needs to cash a check at 2 a.m., and the bank is closed or maybe at 10 p.m., or even 6 p.m., does not mean they should be dealt with in an unjust way by being charged excessive fees.

Mr. TOWNS. The other thing one of you indicated, either you or Mr. Wynn. I believe it was you, Congressman Fields, that the Federal Trade Commission, would be charged with the responsibility of regulating check cashers. However, it is my understanding that the FTC only has 24 staff members that have the sort of investigative background that would be able to do this kind of work; and this would be a national regulation system. So do you still think the FTC should have jurisdiction?

Mr. FIELDS. Staff and I have been talking about the regulatory agency. We chose the FTC because of the commerce involvement of the check cashing industry and we felt it would be better served if the FTC, which is the regulatory body who deals with the issues of interstate commerce, would be the best agency to regulate it.

However, I must admit, Mr. Chairman, I am not stuck or married to any regulatory agency, per se. We chose that vehicle because we felt that vehicle was the most viable.

Mr. TOWNS. In other words, you just want it regulated?

Mr. FIELDS. Yes, and by an agency that can in fact regulate fair and efficiently.

Mr. TOWNS. OK, thank you. I would yield at this time to the ranking member, Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman, I want to thank our colleagues for being here and I want to say I have learned from your testimony and learned some of the concerns and why they arise.

I have a few questions that are designed to clarify my understanding of the bill, if I may ask you. The first is I am concerned about who would be covered by this bill. The licensing requirement refers to a person other than a depository institution engaged in the business of issuing, redeeming, or cashing checks, travelers checks, money orders or similar instruments.

Couldn't that be a host of motels and restaurants and other places that probably deal in a wide volume of these transactions? I know that is not who you are looking at, but I fail to see what in the definition would not include so many businesses beyond the ones who you are concentrating on.

Mr. FIELDS. Yes, sir. The legislative intent is not to deal with hotels, unless they are in the business of, per se, cashing checks. Not if they are tendering a check for a service, but I must admit that the legislative intent is to deal with a mom and pop grocery store, for example, that cashes a check but is not known to the community or presents itself to the community as a check cashing industry, but if they choose to cash checks for a fee, then they certainly will be covered and would be regulated as well, because what I do not want is the check cashing industry, those who thrust themselves out in the public as check cashers to be under regulation and those who do business such as a grocery store, and plus cash checks, not to be under that regulation, as well. But it is not the legislative intent to be so overreaching to go into hotels and restaurants.

Mr. SCHIFF. But a mom and pop grocery store which cashes checks for a fee would be regulated by this?

Mr. FIELDS. It is my understanding and my intent to regulate individuals who cash checks for a fee.

Mr. SCHIFF. For a fee.

Mr. FIELDS. Yes, sir.

Mr. SCHIFF. Congressman Fields, you made a reference I didn't quite hear the number of, of what the average nationwide fee is to cash a check? Do you have that again?

Mr. FIELDS. Yes, the average nationwide fee is 1.7 percent.

Mr. SCHIFF. Is that this particular industry or does that include all financial institutions?

Mr. FIELDS. That is this industry. This particular industry.

Mr. SCHIFF. The average is 1.7 percent?

Mr. FIELDS. The average is 1.75 percent.

Mr. SCHIFF. If I am reading your bill correctly, you set a maximum of 0.85 percent as the fee that would be allowed under this law. So if I am reading this correctly you are——

Mr. FIELDS. 1.5 or 50 cents, whichever is greater.

Mr. SCHIFF. Assuming 50 cents would not be greater, you are setting the fee at 0.85 percent, which is 50 percent of the average that you say now exists industrywide?

Mr. FIELDS. Which is 50 percent of the average?

Mr. SCHIFF. I thought you said——

Mr. FIELDS. Which is 1.7 percent.

Mr. SCHIFF. That is an average?

Mr. FIELDS. Exactly.

Mr. SCHIFF. I understand you are talking about 20 percent being unconscionable, and I agree with that, but the average industry average is 1.7 percent and you are proposing a maximum of 0.85 percent. So you would cut the industry average down by 50 percent.

Mr. FIELDS. There are two discussions—and you make a very good point. There are two discussions that I have entered into as it relates to the regulation of the check cashing industry and the amount. One, in the legislation it provides that the FTC charge, I mean set a rate of 0.85 percent or 50 cents, whichever is greater.

I don't think that would be too onerous to the check cashing industry, and let me tell you why. In doing further research, there are some regions of the country, take New York for example, that charge only, I think, 5 or 7 or 9 percent, and another city that is more rural may charge as much as $5 or 1 percent.

So from that perspective I think the legislation will be altered, and I would go as far as to say should be altered to the extent that whatever regulatory agency we provide this authority with, should have the authority to set rates, and those rates then may be one in one region and another in another region based upon the market across the country.

Mr. SCHIFF. Speaking of regions, can you say why since some States have chosen to regulate this industry why we should not leave this to the States to make that decision; whether there should be a Federal preemption in this area?

Mr. FIELDS. Well, there are 50 States, as we all know, in the country and we only have 7 States regulating an industry that I feel is out of hand. It is running rampant and charging individuals gross rates to cash their check. And the reason why I don't think we can wait for every State legislature to pass legislation is because there are poor people out there who need relief and they need relief right now.

And talking to the check cashing industry in my State, for example, Louisiana is not a regulated State, by and large many of the check cashers feel very good about the legislation. They have no problems with being regulated. They just want to be treated fairly, one; and two, they do feel there are a few individuals who are bad apples in the bunch and they feel that this legislation and this—providing for a regulatory agency to regulate and license the industry will provide—will deal with the reputation of the check cashing industry.

Mr. SCHIFF. Mr. Chairman, I think my time is up, but I think Congressman Wynn wants to respond to that also.

Mr. WYNN. I just want to add there is significant Federal interest here which should justify Federal preemption and that is the number of Federal checks that are in fact in circulation via various mechanisms that ought to be cashed, and we should have a concern that Federal employee checks, veterans benefits checks, various social benefit checks that we provide either directly or indirectly but in most instances directly, income tax return checks, refund checks, excuse me, all of these are areas in which we have a definite Federal interest that the recipients of the checks be able to get the maximum benefits from the funds represented by the check.

That is an equally compelling reason why the Federal Government should step in and ensure that the people who receive these checks receive fair return, if you will, or certainly a fair percentage of the funds that the Federal Government is attempting to give them.

Mr. SCHIFF. Mr. Chairman, if I can ask your indulgence to follow up with Congressman Wynn on that. I would agree that we hopefully remain able to pay our checks and that, therefore, the redemption of Federal checks should not be a problem as far as the instrument goes.

But I wonder if there is a problem still of the identity of the check casher who goes into an institution that is required to cash checks for people with whom they have no institutional relationship, and if there is not a risk of theft and forgery that ultimately can fall back on the institutions. Because if they take the check and they negotiate it, the Federal Government can come back against them for reimbursement, and isn't that a risk factor that is fairly computable in a fee?

Mr. WYNN. My sense is that that risk factor is no greater than in any other commercial transaction, because even if you had a relationship with the bank, basically what you do is present identification, a driver's license in most instances. It would be the same process or same procedure, in which case the risk of fraud is no greater.

I am not going to deny that there would not be a risk of fraud, but certainly the risk of fraud in terms of cashing Federal Government checks based on the presentation of ID or two ID's, as the case may be, would certainly not be greater under this regulatory scheme.

Mr. SCHIFF. I thank my colleague and yield back, Mr. Chairman.

Mr. TOWNS. Thank you very much. I yield to Congressman Horn.

Mr. HORN. Thank you, very much, Mr. Chairman.

On page 5, I notice in section 4 we say a depository institution shall not refuse to cash a government check if, one, the check is presented for cashing by an individual who is the payee of the check; and, two—and this is one I want to ask about—the individual that presents the check for cashing provides sufficient identification.

I assume that is the third party to whom the first party that was the actual recipient of the check endorsed the check over; is that correct? And they are going into the check cashing store and trying to produce sufficient identification that they are the party to whom

the party in section 4(a)(1) was actually the recipient and signed it over; or do you include third party cashing?

Mr. FIELDS. If you are talking about cashing a check with a financial institution, Mr. Horn.

Mr. HORN. No. I am saying if I receive as a government employee a check somewhere, or let's say I receive a check for services rendered, either selling equipment or whatnot, and somebody comes to me, it is a person to whom I owe money, it might be gambling, it might be business, might be anything, I endorse that government check over to them for cashing. It has not yet been cashed. They take it to a check cashing operation. Is that provided for under this bill or is that excluded?

Mr. FIELDS. It is not excluded or provided for precisely. That is solely up to the check cashing industry whether or not they choose to cash that check or not.

Mr. HORN. But the standards under the bill would apply to that third party as well as the original payee, I take it; is that correct? That is what I want to figure out here, is it only the recipient of the check who is named on the check that is covered by the bill or is it the person to whom the recipient signs that check over as an obligation or they owe them money or they are paying them or whatever?

Mr. FIELDS. As I read the legislation, it is whomever cashes the check with the check cashing industry at that time.

Mr. HORN. Whoever ultimately receives the check prior to cashing it at the check cashing industry would be covered by the law, even though it is not the named recipient on the check? It has simply been signed over by the named recipient on the check?

Mr. FIELDS. Exactly.

Mr. HORN. I just wondered the scope of it, that is all. I suspect most of the problems you cite, and I am sympathetic to what you are talking about, are simply the recipient and the original payee.

On section 5(a), we talk about a government check issued by the United States or an agency of the United States and that is mailed by such an agency to the payee of the check may be mailed only to one, the residence of the payee. Now that could be anywhere in the world.

Two, the principal place of business of the payee, and that might be a problem. I am thinking of government recipients outside the United States and to what degree any of them are covered. You cannot really cover the foreign check cashing operation. So this is solely a domestic operation.

Mr. FIELDS. Exactly.

Mr. HORN. Unless there was some enclave of Americans, a PX or something that was gouging somebody in check cashing, would this apply to a foreign PX of the Armed Services?

Mr. FIELDS. No, basically the reason why we put that language into the bill was because there are check cashing outlets that receive government checks. It is the place where the government mails the checks, and then individuals who are on social security or VA benefits walk into that check cashing outlet and they cash that check at that time.

This is to make it clear that the check ought to be mailed to the individual at his or her residence where he or she designates, and

not have an enclave of checks mailed to outlets instead of a P.O. box, to 1550 Washington Street, which is a check cashing outlet, and have individuals walking in there to cash checks.

Mr. HORN. Because in No. 3 you limit it to a Post Office box of the payee at a U.S. Postal Service facility, which excludes anything overseas, obviously, or, four, an account of the payee at an insured depository institution.

I am thinking about the thousands of Americans that live in places like Guadalajara, Mexico, and they live fairly well on their social security check. They have to get them cashed somewhere, but there would be no way we could prevent by this legislation, obviously, which is U.S. legislation, any gouging by overseas, non-U.S. cash checking facilities. They are on their own.

Mr. FIELDS. That is not the legislative intent.

Mr. HORN. OK.

Thank you, Mr. Chairman.

Mr. TOWNS. Thank you very much, Mr. Horn.

Before I yield to Mr. Barrett, let me just comment. I think Congressman Wynn indicated he had 72,000 Federal employees in his district and he felt that any bank that was covered by FDIC should be required to cash Federal checks, and I agree with that to a point. But then I stop and I think about the fact that you would probably create huge lines around the 1st and 16th of every month. How would we avoid that?

I understand where you are going, and I do agree with you, but I can just see the long lines that this probably would create around the first and the middle of the month.

Mr. WYNN. Mr. Chairman, that is certainly a very good question. In the first instance, many of my Federal employees do have bank relationships, so that would not change. I am concerned about those on the low end of the scale, involved in mainly the low level Federal employees, if you will. We have been fortunate, we have some banks in the area, so I don't think any one bank would be deluged with unreasonable lines.

Also, the general notion that on Friday, on payday, you will have to wait in line; that is probably not unusual in any circumstance or on payday, you are going to have additional checks.

My sense is that the market regulated under this bill will be more competitive; that banks will be taking some of these checks and check cashing institutions will be taking some of these checks and that these employees will be dispersed throughout the market. In some instances there will be additional lines, but I would venture to say probably four-fifths of my constituents already have banking relationships.

I am primarily concerned with maybe the one-fifth to one-sixth that might not have that relationship. And sometimes there are existing relationships, but sometimes because of the hours, the banks may be closed, and that on one or two occasions some of these people would go to a check cashing institution. So I think it will work itself out in terms of the market competition and the various kinds of relationships people would have with financial institutions.

Mr. FIELDS. Mr. Chairman, if I may add to Mr. Wynn's comments. I met with bankers in Baton Rouge, part of my congressional district, and one of the major banks there, which is a major

bank in the State, a statewide bank, has decided or is in the process of deciding, opening up—I don't want to say check cashing outlets, but a phase of their banking service in communities where individuals can in fact cash a check. They will primarily cash checks for individuals because they do realize this is a problem and they certainly want to provide this service.

In terms of long lines, I think banks will accommodate, because banks are in the business of accommodating customers. And they are customers. And I think banks will do whatever needs to be done to accommodate the long lines.

If I was a bank president, I would be tickled to death to see a long line on a Friday, Monday, Tuesday, Wednesday, Thursday, or any other day, and would do whatever I needed to do in customer service to accommodate those individuals, because they may entice individuals, not entice, but encourage individuals to start a relationship with a bank.

Mr. TOWNS. Thank you very much. I yield to Congressman Barrett.

Mr. BARRETT. Thank you, Mr. Chairman. I applaud both Representative Fields and Representative Wynn for introducing this legislation. A couple of questions; and I certainly understand the underlying rationale behind the bill.

Have you looked at other ways to encourage other financial institutions to also cash checks in the central city? Because one of the things in your testimony you point out is the number of banks that are simply abandoning central city locations. I think this is part of the problem and I am wondering if you have looked at other ways to provide alternatives, as well.

Mr. FIELDS. Part of the legislation, Mr. Barrett, deals with banks cashing and we did not over reach, we simply dealt with the government checks because we felt that we had an interest in government checks and it is the government's seal of approval, particularly FDIC insured banks that are backed by this Federal Government. This legislation not only deals with the check cashing outlets, but also with the banks as well.

Mr. BARRETT. And your bill has two different parts. It has the registration part with the FTC and the maximum charge that can be levied against the customer. Which do you feel strongest about? And if you can give me sort of the rationale for having check cashing services register with the FTC, what does that bring us?

Mr. FIELDS. As I stated earlier in my testimony, and members of the committee, I am not married to a particular regulatory agency. We chose the FTC because of the interstate commerce aspect and we just felt that that was the agency to regulate the check cashing industry.

We are still discussing other possibilities in terms of the regulatory agency, but it is not one I am married to. I am married to the concept and the concept is to license those individuals who participate in the business; and second, make sure that individuals cannot go out and charge unconscionable fees to persons who need the service because they don't have relationships with a bank.

You take an individual who does not have a relationship with a bank, who works 5 days a week, 40 hours a week and gets his check and he cannot cash that check at a bank because he doesn't

have a relationship at that bank, so he is left to the discretion of the check cashing industry to cash his check so that he can put bread and meat on his table. And because that is so important to individuals and families, I just feel that we should make sure that is a business that is aboveboard, and all of these businesses are not bad.

As a matter of fact, 90 percent—over 70 percent I cannot give an adequate accounting, but I would like to say most of them are good reputable businesses. Businesses in my State want the regulation because they want their reputation to be high and aboveboard.

Mr. BARRETT. Thank you very much. Again, I commend you on tackling the problem.

Mr. FIELDS. Thank you, sir.

Mr. TOWNS. Thank you very much, and let me say to both of you, I think this is very important legislation because when we look at what is happening around the country, there are some banks that are closing and opening up what we call money stores. So I think somewhere along the line we need to look seriously at regulation and I want to commend both of you. I think this is a well thought-out bill.

Thank you very, very much.

I yield to Congressman Schiff for closing comments.

Mr. SCHIFF. Well, Mr. Chairman, since you invited me to, and colleagues saw you do that, I will ask one more question, because what has constantly gone through the testimony is the fact that there is not available, what would be considered for most of America, a routine relationship between individuals now being served by these check cashing businesses and by the other financial institutions.

So I wonder if the ultimate solution is not looking for ways to see if we can persuade, though I would not want to mandate it, but find a way to encourage financial institutions to return to communities that they left previously which created this void.

I would invite our colleagues to respond to that.

Mr. FIELDS. Well, let's take the inner city of one of my parishes, which most States refer to as counties. There is not a lack of banks or financial institutions in that inner city. As a matter of fact, we have more banks than probably check cashing outlets. The problem is banks do not have relationships with individuals who do not have relationships with banks, and they do not cash their checks.

As a result of that, it is not because we don't have a large number of banks in a particular area in the country or community, but it is because the banks do not have relationships or do not reach out to individuals who are not clients.

Mr. SCHIFF. So the individuals you are referring to cannot meet the minimum requirements set by the banks, so they do not have a regular routine relationship with the bank.

Mr. FIELDS. In large part, yes.

Mr. SCHIFF. Thank you. I yield back to the chairman once again.

Mr. TOWNS. Thank you. I look forward to watching you and working with you on this legislation and thank you again.

Mr. FIELDS. Thank you, Mr. Chairman.

Mr. WYNN. Thank you, Mr. Chairman and members of the committee.

Mr. TOWNS. On the next panel, we have Jeffrey Silverman, member of the board of directors of National Association of Check Cashers, and vice president and CEO of the MS Management Co.

Mr. Silverman, we will ask that your entire testimony be included in the record and if you can just summarize within 5 minutes and allow the Members an opportunity to ask you questions, we would appreciate it.

STATEMENT OF JEFFREY SILVERMAN, MEMBER, BOARD OF DIRECTORS, NATIONAL ASSOCIATION OF CHECK CASHERS, AND VICE PRESIDENT AND CEO, MS MANAGEMENT, INC.

Mr. SILVERMAN. Thank you, Mr. Chairman.

Mr. Chairman, my name is Jeffrey Silverman. I am the vice president and chief executive officer of MS Management, Inc., which is headquartered in Northbrook, IL. We are a privately owned company which provides a broad array of financial services, including check cashing to local communities in three States, California, Illinois, and Texas.

I am testifying today on behalf of the National Check Cashers Association, the professional organization that represents more than 2,400 individual check cashing centers in 35 States. We appreciate this opportunity to provide testimony on H.R. 1448, the Check Cashing Act of 1993.

Obviously, this bill would have a major effect on how check cashing services would be provided to the local community. In that regard, we are pleased to help this committee gain a better understanding of the nature of our business and to draw your attention to the effect of H.R. 1448 on the delivery of important financial services to community members.

The professional check cashing industry in the United States today is composed of approximately 4,500 neighborhood financial service centers which cash upwards of 150 million checks annually with an aggregate face value of more than $45 billion. The check cashing industry employs approximately 25,000 local community residents throughout the United States.

Just as many consumers prefer the convenience of specialty stores to large department stores, so, too, do many consumers prefer the convenience of check cashing centers. Although 60 to 70 percent of check cashing clients maintain banking relationships, many prefer check cashing centers for reasons of personal convenience ranging from quicker access to funds, neighborhood locations, more flexible hours and rapid service. I have locations that are open 7 days a week, 24 hours a day, 365 days a year.

With a very few exceptions, the professional check cashing industry is largely a small business activity with vast majority of centers owned by local operators, many of whom own one to three check cashing stores.

Mr. Chairman, the National Check Cashers Association has serious reservations about H.R. 1448 as currently written. The bill would regulate the industry in a way which is nearly unprecedented in times of economic stability by imposing Federal price controls nationwide on a significant segment of the economy which provides needed services to millions of local community residents.

H.R. 1448 calls for limits on fees which may be charged for cashing checks not exceeding the greater of 50 cents or 0.85 of the amount of the instrument. The National Check Cashers Association strongly believes that any consideration of a governmentally imposed rate structure should be reviewed at a State level not a Federal level.

And this is presently occurring, if I can update the information provided, in 11 States at the present time and has been dealt with on a State-by-State basis in the past. As a matter of fact, in Louisiana, there was a bill introduced several sessions ago and my understanding is it will be introduced again. So the States are dealing with the issues right now.

First of all, there is little or no precedence for the Congress of the United States to impose Federal price controls outside of a national emergency. Legislatively implementing an exact price for a specific service for every city and town in America without any overriding national emergency is in extraordinary contrast to the principles of our free market economy.

In that regard, perhaps it would be useful to more fully discuss check cashing fees and how they are set currently as this seems to be a major thrust of the bill.

A multitude of factors go into the determining of the fee structure of cashing checks. Like any business, check cashers have normal overhead, taxes, loss, theft. Overhead cost factors would be dramatically different from location to location. Overhead costs of doing business in New York are much different than in New Mexico. Further, the pricing of any product or service can be greatly dependent upon the level of customer activities or volume of a particular location.

Beyond normal overhead expenses, however, the check cashing business, like almost every business in the free market economy, is subject to normal pressures of competition. Our company presently operates in Houston, TX. In 1978 there were four check cashing stores. There are now over 150 check cashing stores in that marketplace. So there is tremendous competition.

In fact, the nature of our business allows for relatively low cost of entry and the service is highly price sensitive. The combination of the two means that competition rapidly appears as favorable market conditions develop, as witnessed by the rapid growth of our industry.

There is also substantial risk factors which must be considered in determining the appropriate fee for cashing a check. Is it a government check, a payroll check, or an unknown third party check?

One of the highest risks checks to be cashed in the country today is a governmental check because it is sent through the U.S. mail.

What are the chances the check could have been stolen and how would we know?

Do we know the individual involved? Has he or she been a good customer before?

Does the customer have proper identification? Is it enough, of verifiable quality? All these questions of risk sometimes, and many more must be considered.

Actually, the subject of rate regulation of the check cashing industry already has precedent at State level; 11 States have now de-

veloped rate structures for the check cashing industry. If the rate structures are to be considered, it is at the State level with the unique cost factors of that particular location can be most appropriately considered.

The National Check Cashers Association also has a number of questions regarding the practicality of the requirement of the FTC to license the professional check cashing industry. Would it cover mainstream retailers selling money orders, other retailers who cash checks, grocery stores which give cash back when you make a purchase, liquor stores which cash payroll checks when the consumer makes a purchase, hotels and motels that cash personal checks and travelers checks for their guests? The list goes on and on.

If we look more closely at the licensing requirement of the FTC, other potentially more serious questions arise. To our knowledge, the FTC is not currently nor has it been in the licensing business. From our perspective it is difficult to see how this small agency of less than 1,000 people could effectively and efficiently take on this task of conducting background checks, and then in the retail enforcement business overseeing perhaps hundreds of thousands of people and units.

Instead, to aid in the battle against money laundering, the National Check Cashers Association Board of Directors has adopted a resolution calling for Congress to encourage the States to establish registration programs for the check cashers, money order sellers and transmitters of money by wire and their agents. So our association has already recommended, through prior hearings and resolutions, a State-by-State regulation process. In fact, NaCCA would propose it be a Federal crime for a person to sell or transmit money by wire without completing this registration process.

A nationwide registration program administered by the States would be more efficient, less burdensome and less costly, yet comprehensive enough to achieve a system of written public records containing the details of individuals involved in this check cashing industry.

Considering the significance and complexity of H.R. 1448, we hope the subcommittee would consider scheduling further hearings or at least keep the record open to provide the opportunity for additional testimony and statements from the check cashing customers, our bankers, suppliers, and community members. A proposal to federally regulate an entire industry would certainly benefit from a full review of all the many facets of that industry.

If time permits, I would like to enter into the record an updated list of the States that have established check cashing regulations which includes fee regulation and also a registration process.

Mr. TOWNS. Your entire statement will be included in the record.

Mr. SILVERMAN. OK. Later, in today's testimony, I am also aware that a statement by the Virginia Citizens Consumer Council will be presented. The statement contains a situation in which the check cashing industry was associated with a payday loan program.

In fact, the check cashing association from that particular State actually reported this activity of payday loans being disguised under the auspices of a check cashing company which, in fact, they were actually a loan company handling that activity. Through our

self-policing and our associations, we were able to report this incident to the local governmental authorities and they are dealing with that situation right now.

Mr. TOWNS. Mr. Silverman, you will have to summarize. I have already allowed you to go way past the allotted time.

Mr. SILVERMAN. Our organization must oppose H.R. 1448 at this time as currently drafted. We look forward to working with you to help you gain a better knowledge about the many benefits professional check cashing centers provide to the local community.

Thank you.

[The prepared statement of Mr. Silverman follows:]

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Statement of

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Vice President
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Northbrook, Illinois

on behalf of the

NATIONAL CHECK CASHERS ASSOCIATION, Inc.

regarding

HR 1448

The Check Cashing Act of 1993

before the

United States House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

SUBCOMMITTEE ON
HUMAN RESOURCES AND INTERGOVERNMENTAL OPERATIONS

Washington, D. C.

June 29, 1993

Mr. Chairman, my name is Jeffrey Silverman. I am the Vice President and Chief Executive Officer of M.S. Management, Inc., headquartered in Northbrook, Illinois. We are a privately owned company which provides a broad array of financial services, including check cashing, to local communities in three states.

I am testifying today on behalf of the National Check Cashers Association (NaCCA), the professional organization that represents more than 2,400 individual check cashing centers in 35 states, and is the industry's leading voice on legislative, regulatory, and business issues. My company is one of the founding members of the association, and I am currently a Vice President and member of the Board of Directors and Executive Committee.

We appreciate this opportunity to provide testimony on HR 1448, the "Check Cashing Act of 1993", a bill which would regulate certain aspects of the check cashing industry. Obviously, this bill would have a major effect on how check cashing services would be provided for the local community. In that regard, we are pleased to help this committee gain a better understanding of the nature of our business and to draw your attention to the effect of HR 1448 on the delivery of important financial services to community members.

Background

First, we believe it would be useful to provide a background for you about the check cashing industry, the services it provides, and how the National Check Cashers Association was formed.

The professional check cashing industry in the United States today is composed of approximately 4,500 neighborhood financial service centers, which cash upwards of 150 million checks annually with an aggregate face value of more than $45 billion. The check cashing industry employs approximately 25,000 local community residents all over the United States.

In recent years, as a broader spectrum of consumers have sought increased financial service convenience, including flexibility of hours and faster delivery of financial services, community-based check cashing centers have proliferated.

From its inception in the 1930s, as a response to the banking practices of the Depression and changes in employer payment practices, the check cashing industry has evolved to become the pivotal link to the payments system for a huge group of Americans, who through personal preference choose to utilize both check cashing centers and the banking system.

Just as many consumers prefer the convenience of specialty stores to large department stores, so, too, do many consumers prefer the convenience of check cashing centers to banks. Our records indicate that 60 to 70 percent of check cashing clients maintain a banking relationship but prefer check cashing centers

for reasons of convenience ranging from quicker access to funds and neighborhood locations to more flexible hours and more rapid and efficient service. Additional factors, such as the hidden costs of transportation and the use of valuable personal time also contribute to the strong convenience aspect of check cashing centers.

Community Financial Services

Over the years, check cashers have introduced a range of financial services to complement basic check cashing. While the cashing of checks -- including payroll checks, government checks, personal checks and insurance drafts -- remains the check cashing center's primary activity, other financial services are available at check cashing facilities. These include the sale of money orders, money wire transfers, welfare benefit and food stamp distribution, and public transportation fare and token sales.

Our industry has also been in the forefront of utilizing sophisticated electronic technology such as the electronic filing of federal tax returns, a growing segment of our business. Check cashers are also leaders in the electronic distribution of government benefits (Electronic Benefit Transfer -- EBT) and electronic collection of bill payments. Much of this technology is unavailable to our customers.

Check cashers are continually expanding the roster of service offered to meet customer needs. Today, check cashing centers are responsible for the distribution of license plates and motor vehicle titles, accessibility to photocopying and fax machines, and the sale of postage stamps and lottery tickets.

Just as the services offered by the industry have expanded over time, the markets check cashers serve have broadened. Check cashing centers continue to serve their traditional customer base in lower income neighborhoods, and hire residents of these communities. More recently as middle income consumers have demanded more convenient financial services, check cashers have expanded into their communities.

Emergence of Check Cashers

The growth of the check cashing industry was stimulated, in part, by the passage of the Bank Deregulation Act of 1980, which removed deposit rate ceilings and led to explicit pricing for bank deposit services. Faced with a new banking environment, consumers demanded increased convenience and lower costs in fulfilling their financial service needs. As a result, community-based check cashing centers which provide more convenient access to financial services became increasingly utilized.

Checks are cashed for a fee, typically based upon a percentage of the check's value. Like any other business, check cashing fees are based on two elements: 1) the cost of doing business and

2) realizing a reasonable rate of return on investment. In addition, there are several unique risks associated with the special service and convenience afforded by check cashers.

Many consumers seek immediate use of their money and are unwilling to wait until a check "clears" through the banking system, anywhere between 2 and 5 days. While banks are "insulated" from some losses on the cashing of checks through the deposits they hold, check cashers have no such mechanism as compensating deposit balances. Check cashers therefore bear the risk of loss for the checks that they cash.

Several states regulate check cashing fees, including California, Connecticut, Delaware, Georgia, Illinois, Minnesota, New Jersey, New York, Ohio, and Rhode Island. In non-regulated states, rates, as they are in any other industry, are established based upon local market conditions. The average fee charged throughout the United States ranges from 2-3% of the face value of the check.

Small Business Industry

The professional check cashing industry is largely a small business activity, with the vast majority of centers owned by local operators, many of whom own one to three check cashing stores. More atypical are firms that operate more than 50 stores. Several large check cashing operations in the U.S. are public companies, the largest of which operates over 270 stores in several different markets.

National Check Cashers Association (NaCCA)

Professional check cashers from throughout the United States formed the National Check Cashers Association in 1987. The organization has grown rapidly, with a current membership of 2,400 individual check cashing centers in 35 states. The Association was organized to foster the business and interests of its members and to provide better service to customers and the community.

Among its accomplishments, NaCCA has forged adoption of a national Code of Conduct that specifies ethical standards for the industry, such as the disclosure of fees by posting notifications, and providing receipts to our customers. Additionally, NaCCA has also adopted a Statement of Principles which commits our members to vigorously combat money laundering. In fact, later this year, NaCCA will publish a comprehensive manual for the industry, authored by a well-known government financial security expert, who is also an expert on the Bank Secrecy Act, that will detail the procedures necessary to prevent money laundering.

As a further help in the fight against money laundering, The Board of Directors of NaCCA recently passed a resolution proposing that Congress encourage the states to establish a registration program for everyone who cashes checks, sells money orders, or acts as an agent of money transmitters.

Comments on HR 1448

The National Check Cashers Association has very serious reservations about HR 1448, the "Check Cashing Act of 1993", as currently written. The bill would regulate the industry in a way which is nearly unprecedented in times of economic stability by imposing federal price controls, nationwide, on a significant segment of the economy which provides needed services to millions of local community residents.

State Issue, not Federal

HR 1448 calls for a limitation on the fee which may be charged for cashing checks, saying that "a person that regularly engages in the business of cashing checks, travelers' checks, money orders, or similar instruments, shall not charge any fee for cashing such an instrument that exceeds the greater of $0.50 or 0.85 percent of the amount of the instrument". The Act does not contain a "Congressional findings" section, so no reason is stated as to why fees should be controlled by the federal government.

The National Check Cashers Association strongly believes that any consideration of a governmentally imposed rate structure should be reviewed at the state level, not the federal level.

First of all, there is little or no precedent for the Congress of the United States to impose federal price controls outside of a national emergency. Legislatively implementing an exact price for a specific service, for every city and town in America, without any overriding national emergency, is an extraordinary contrast to the principles of our free market economy.

Considering that it would be remarkable at the very least for Congress to unilaterally impose this sort of unprecedented market distortion, perhaps it would be useful to more fully discuss check cashing fees, and how they are set currently, as this seems to be a major thrust of the bill.

A multitude of factors go into the determination of a fee structure for cashing checks. Like any business, check cashers have normal overhead expenses. Rent for office space, salaries, depreciation, interest, insurance, management and administration expenses, taxes, and other normal operating expenses are all part of the built-in cost structure of running a business.

These cost factors will be dramatically different from location to location. The overhead costs of doing business in New York City are much different than in McPherson, Kansas, or Albuquerque, New Mexico. Further, the pricing of any product or service can be greatly dependent upon the level of customer activity, or volume, of a particular location. The population densities of particular cities and towns obviously vary greatly, having a significant effect on location volume.

Therefore, the price of any product or service, in this case cashing checks, may be determined in large part by the underlying cost structure of the particular location, the population density, and the resulting level of customer activity.

Beyond normal overhead expenses, however, the check cashing business, like almost every other business in a free market economy, is subject to the normal pressures of competition. Check cashing centers compete daily with banks, grocery stores, credit unions, savings and loan companies, and a multitude of other businesses which may cash checks.

The nature of our business allows for a relatively low cost of entry, and the service is highly price-sensitive. Competition rapidly appears with favorable market conditions, as witnessed by the rapid growth of our own industry. The number of check cashing centers have doubled in the last five to seven years. There is no doubt that local fee structures must appropriately reflect, in part, local competition. Other important factors come into play, however.

There is a substantial risk factor which must be considered in determining the appropriate fee for cashing a check. Is it a government check, a payroll check, or an unknown third-party check? What are the chances that the check could have been stolen, and how would we know? Do we know the individual involved? Has he or she been a good customer before? Does the customer have proper identification -- is it enough, and of verifiable quality? All these questions of risk, and sometimes many more, must be considered. The weight of these elements of risk must be carefully measured and again in part, have a bearing on the fee which will be charged.

However, the subject of rate regulation of the check cashing industry already has precedent at the state level. Ten states, including California, Connecticut, Delaware, Georgia, Illinois, Minnesota, New Jersey, New York, Ohio, and Rhode Island have now developed rate structures for the check cashing industry. If rate structures are to be considered, it is there, at the state level, where the unique cost factors of that particular location can be most appropriately considered.

The federal government is not the appropriate body to set rates nationwide, assuming that was even necessary in the first place. Even when wage and price controls were set under President Nixon, specific prices were determined by a regulatory body, not written into the legislative language.

Beyond that, the fee structure contemplated in HR 1448 is in fact completely unrealistic; nowhere in the nation, not even in regulated states, are fees as low as 0.85 percent. State regulators with expertise in the check cashing industry's cost and profit structure have all set rates considerably higher than the ceiling set in HR 1448.

There is no doubt that any consideration of setting rate structures should appropriately be left to the states.

Federal Licensing

The provisions of HR 1448 would also require the Federal Trade Commission to license any person, other than a depository institution, engaging in the business of issuing, redeeming, or cashing checks, travellers' checks, money orders, or similar instruments, or of transmitting money.

Before issuing a license, the Federal Trade Commission must review and approve the business record and the capital adequacy of the applicant; the competence, experience, integrity, and financial ability of each individual who is the applicant, is a director, officer, or supervisory employee of the applicant, or owns or controls the applicant.

The National Check Cashers Association has a number of questions regarding the practicality of this licensing approach. While the Act would obviously cover the professional check cashing industry, there are several serious questions. Would it cover mainstream retailers who sell money orders? Other retailers who cash checks? Grocery stores which give a "cash-back" when you make a purchase? Liquor stores which cash payroll checks when the consumer makes a purchase? Hotels and motels that cash personal checks and travellers' checks for their guests? The multitude of other "normal business situations" where cashing a check is nearly taken for granted in the normal course of business?

If these businesses are covered under the provisions, there will literally be millions of background checks which will have to be undertaken by the Federal Trade Commission. Further, if these kinds of transactions are not covered under the bill, where is the fairness in principle to the professional check cashing industry? Potentially arbitrary divisions along "business lines" may be difficult to administer, much less justify.

The Act is also vague on the question of who is covered by the phrase "transmitting money". Agents of companies such as American Express and Western Union may certainly come to mind. However, is the same coverage applied to those who transmit money via armored car companies, or money courier services, or firms which service ATMs?

Looking more closely at the licensing requirement of the Federal Trade Commission other potentially more serious questions arise. To our knowledge, the FTC is not currently, nor has it ever been, in the "licensing" business. From our perspective, it is very difficult to see how this small agency of less than 1,000 people could effectively and efficiently take on the herculean task of conducting background checks, and then be in the retail enforcement business overseeing perhaps hundreds of thousands of people and units.

While the FTC does have ten regional offices, it is our understanding that each office only has about 17 employees and serves a large geographical area. For example, a retailer in Rehoboth Beach, Delaware, would be dealing with the FTC office in Cleveland, Ohio. Obviously, large organizational changes would have to be contemplated.

National Registration Program

Instead, to aid in the battle against money laundering, the National Check Cashers Association Board of Directors has adopted a resolution calling for Congress to encourage states to establish a registration program for check cashers, money order sellers, and transmitters of money by wire, and their agents. States would be encouraged to use a standardized registration form to be drafted by the U.S. Treasury Department. States failing to adopt a registration program would be subject to a federal sanction.

In fact, NaCCA would propose that it be a federal crime for a person to cash a check or sell money orders or transmit money by wire without completing this registration process.

NaCCA's proposal would include identification of the principal owners and officers together with submission of fingerprints of owners and officers to the appropriate state agency.

A nationwide registration program administered by the states would be a more efficient, less burdensome, less costly, yet comprehensive way to achieve a system of written public records containing the details of individuals involved in the check cashing industry. The requirement for fingerprints would also provide a "deterrence barrier" to any individuals with an undesirable background, and also provide a verifiable mechanism for positive individual identification.

Future Direction

The provisions of HR 1448 require a number of other actions such as a requirement that federally drawn checks be mailed to only certain addresses, and a study of the debit card system of benefit payments and benefit check delivery. These issues point to another area in which check cashers are playing an increasingly important role -- that of EBT, or Electronic Benefit Transfer.

As EBT technology continues to develop, the check cashing industry has been in the forefront to more efficiently deliver government benefits. While EBT offers potential benefits to consumers, government agencies, and check cashing centers, there are certain drawbacks.

Therefore, the National Check Cashers Association supports further study into these emerging technologies, and would be happy to work with your subcommittee and staff to explore their application to the check cashing industry.

Summary

The National Check Cashers Association is pleased to begin the process of providing this subcommittee with a better working knowledge and understanding of how the professional check cashing business works, the benefits it provides to the local community, and how this bill would effect the industry. We stand ready at any time, Mr. Chairman, to work with this subcommittee and its staff to provide comprehensive information about professional check cashing centers.

Considering the relatively short notification of this hearing, however, we hope that the hearing record of the subcommittee will be kept open for a period of time to allow further comment by other interested segments of the check cashing industry. In fact, considering the significance and complexity of HR 1448, we hope this subcommittee would consider scheduling further hearings to provide the opportunity for testimony from check cashing customers, our bankers, suppliers, and community members. A proposal to federally regulate an entire industry would benefit from a full review of all the many facets of that industry.

At this time, however, the National Check Cashers Association must strongly oppose HR 1448, the "Check Cashing Act of 1993," as currently drafted. The unwarranted, and nearly unprecedented, imposition of federal price controls would literally drive many check cashing centers out of business, not only losing local jobs, but losing needed financial service centers in the community.

Further, the overly burdensome and restrictive federal licensing procedure required by HR 1448 is realistically unworkable, costly, and unnecessary. Instead, the federally encouraged state registration procedure adopted by the NaCCA Board would provide a more appropriate and workable focal point for information accumulation.

Again, Mr. Chairman, while our organization must oppose HR 1448 at this time, we would look forward to working with you to help you gain a better knowledge about the many benefits professional check cashing centers provide to the local community.

Thank you.

Mr. TOWNS. Thank you very much.

Let me ask you, you indicate you are in Illinois, Texas, and California right now.

Mr. SILVERMAN. Yes, I am.

Mr. TOWNS. Did you start in Texas or Illinois first?

Mr. SILVERMAN. My father opened his first location about 20 years ago in the State of Illinois.

Mr. TOWNS. And you then went to Texas and California because they were unregulated or did you—why didn't you go to New York or to Delaware? I am just curious.

Mr. SILVERMAN. Our marketing tack for my particular company was my mother for medical purposes had to move to a warm climate. Then my parents moved to California, at which time my father opened up a location in that area and found there was a tremendous need in the community for these type of services and we opened additional stores. As far as the State of Texas, in the late seventies and early eighties, Houston was projected as one of the largest growth cities in the country, and that was our particular marketing plan.

Locations have sprung up in every major city in this country resulting in a very competitive marketplace for check cashing facilities.

Mr. TOWNS. Let me ask you this. If it is regulated from the Federal level, do you think that would put you out of business?

Mr. SILVERMAN. Absolutely.

Mr. TOWNS. Why?

Mr. SILVERMAN. On a State-by-State level, we have had the opportunity to present different factors within the local communities that have an impact upon our rates. The average rate, as Representative Fields noted, is 1.75 percent. We have just gone through extensive rate hearings in Illinois, and those rates, after extensive rate hearings, have actually been increased to 1.4 percent right now.

New York, where they have gone through extensive rate hearings, the record shows that the rates were at 0.9 percent. Those rates have been increased by 20 percent. I believe they are now up to 1.1 percent. Each community is so different and the cost of the operation are just so different, demands are different, different programs.

In Illinois and New York, part of our cost of operation is defrayed by the higher volume of our locations. We deliver government benefits through our locations—welfare checks, food stamps—and through this volume we are able to provide services at lower cost.

Mr. TOWNS. You know, I agree with you. The fact is that when you try to do it on a Federal level, as with a lot of things, you have to take into consideration in reference to the cost of living and the cost of doing business in one area versus another, insurance and other factors. I understand that. However, and we hear this quite often when we try to deal with things on a Federal level, even with the Census count we heard it. But the point is when you have State legislatures that cannot get regulation through, like for instance you mentioned States that are thinking about legislation—you are probably talking about Ohio, Pennsylvania, and Louisiana—but they cannot get bills through their State legislature. If we

feel strongly that something should happen in this area, what should we do?

Mr. SILVERMAN. Our industry has taken a position through our national association, that it should be a State-by-State process. We fully support registration of our industry within the States.

The States where the industries are mature and have had the ability to educate the public and the legislators, have legislation that makes sense for the consumer, for the State and also for the businessmen.

Mr. TOWNS. Well, I can understand how difficult it is when you start talking about doing it on a national basis, but I think if it is not being done by the States it is something that has to be addressed. So I will yield at this time to Congressman Schiff, our ranking member.

Mr. SCHIFF. Thank you, Mr. Chairman.

One matter of curiosity, Mr. Silverman. I am also born and raised in Illinois, and before moving to New Mexico did a little volunteer work with my local State legislator and there are some issues in the legislature I remember dealing with currency exchanges. My question is, is your kind of business the same as a currency exchange or is it different in some way, shape, or form.

Mr. SILVERMAN. In Illinois, our industry is known as the currency exchange industry. Outside of Illinois, it is known as the check cashing industry because the connotation of currency exchange being involved with exchange of foreign currency, pesos for dollars, Canadian currency, and that is not what the check cashing industry is all about.

Mr. SCHIFF. Sorry about that, but——

Mr. SILVERMAN. Do we have a shortcircuit?

Mr. SCHIFF. No. A group of votes are going to be coming up in a couple of minutes. But you answered my question. In Illinois you are a currency exchange.

Mr. SILVERMAN. Yes, we are.

Mr. SCHIFF. Let me come down to the essential issue. I think the chairman will have to call a break here shortly. Again, this hearing has been properly titled by the chairman, "Check cashing stores, a necessary service or an excessive profit?"

You have testified from the point of view that this is a necessary service. You heard the panel before you of our colleagues that suggested that although it may be a necessary service, at times there is an excessive profit.

Can you give me some idea, even understanding that regions differ and costs of operation differ? Is there any limit? Is there any percentage of fee for cashing a check that you would say would have to be unfair and unconscionable usury in any part of the country?

In other words, 20 percent or 10 percent or 5 percent or 3 percent? Is there any amount there that you would say as representing this industry if one of our businesses is charging this amount or more they are in the wrong?

Mr. SILVERMAN. Well, clearly, my personal opinion is a 20 percent fee is gouging.

Mr. SCHIFF. How about 10?

Mr. SILVERMAN. It depends what the circumstance of a particular situation are, whether it is a personal check, government check, whether there is ID, whether or not there is ID, whether it is drawn on a foreign bank. There are many circumstances.

The more significant problem that we run into, not problem but competitive pressures that we have, is for example in the city of Houston. There are now over 150 check cashing stores. If the consumer does not obtain good service and does not obtain a competitive price and the consumer is extremely price sensitive, that business will not survive.

Mr. SCHIFF. Unless the consumer has no choice and that is the point made.

Mr. SILVERMAN. In Houston there is 150 stores. And in terms of the prices, all of the stores have posted rates. Our stores also give receipts so the consumer is well aware of the cost of the transaction.

As far as the consumer not having a choice, there are also other significant check cashing operations within the country. The local markets, the large chain organizations, and the mom and pop markets all cash checks. The local liquor stores cash checks. The distinction between our industry and that particular industry is that our only source of revenue is the check cashing fees.

We have to post our rates. We have to be up front with the consumer, whereas the markets and the mom and pops and liquor stores are, "Hey, buy some merchandise here, we will then cash your check." So the cost of cashing the check is somewhat hidden. In fact, they have to purchase products.

Mr. SCHIFF. They have to purchase products.

Let me ask one more thing. You made certain references to self-policing, and I think Congressman Fields is from the State of Louisiana. Isn't there an episode in Louisiana involving your industry—maybe I have the wrong State, but can you give me an example of self-policing where you felt that somebody was charging unconscionable rates or otherwise misusing the business and the industry did something about it?

Mr. SILVERMAN. Well, very clearly in Virginia, the situation where payday loans were resulting in 20 or 30 or 40 percent fees being charged for a particular transaction, the local check cashing association from that State actually reported it to one of the local regulatory bodies and it has resulted in a complete investigation. It also was established that this is not really a check cashing service being provided.

Mr. SCHIFF. I thank the witness.

Mr. Chairman, I yield back.

Thank you.

Mr. TOWNS. I yield to Mr. Barrett and I also yield the chair to Mr. Barrett.

Mr. BARRETT. Thank you, Mr. Chairman. I certainly understand your comments with respect to wanting this to be done at the State level. My question to you is where does your association support legislation on the State level, that would control price gouging?

Mr. SILVERMAN. Our industry clearly, and our statement of ethics and standards of ethics that our industry and association has

adopted is clearly not in support of price gouging, nor would I tolerate it within our company.

On a national level, we have adopted a statement of registration, State-by-State——

Mr. BARRETT. My question is more directed than that. I was in the State legislature, and many times I would hear groups come and say this is an issue that should be dealt with at the Federal level. Now I am at the Federal level and groups come and say this should be done at the State level.

I have this feeling that, in essence, you don't want it to be done anywhere. Not you. Or maybe it is you. I will let you answer the question.

Mr. SILVERMAN. All I can say is our industry has gone through tremendous growth in the last 10 years. There were only two States that had any type of regulation 10 years ago. There are now 11 States that have regulation.

I believe there are really only 35 States in the country that are members of our association right now. There is not really a big check cashing need in many States. So already a third of the check-cashing States have regulation and that has evolved in the last 4 or 5 years, heavy regulation. A lot of the regulation has been adopted very recently.

Mr. BARRETT. Let me stop you.

Mr. Chairman, if we could adjourn for a second.

Mr. TOWNS. I will call for a 10 minute recess and then we will come right back.

[Recess taken.]

Mr. TOWNS. The hearing will reconvene.

Let me apologize for the long delay, because, as you know, we have to vote around here. And occasionally there is a huge block of votes, as we just experienced a few minutes ago which held us much longer than we thought we would be detained.

Let me just sort of pick up on with you, Mr. Silverman. Let me make certain I understand you.

I think that you are saying, yes, some form of regulation should take place at some point, but, however, to do it at the Federal level might not be the place to do it. Let me ask you this, if that is what I am hearing correctly, would you support legislation at the Federal level saying that by X, Y, Z year, every State should be regulated and it would not be that we would regulate them here in terms of the fee, but the point is that the State itself would have to do it and we could sort of mandate from here that each State would have to have regulations in place by a certain time and date.

What would be your reaction to that?

Mr. SILVERMAN. I would have to revisit that situation with the board members from the association. My personal position is a mandate by the States to do a registration by a certain period of time—I personally would be in favor of it. As far as where our national association falls, I would have to get back to you with their position very shortly.

Mr. TOWNS. I thank you very much. I yield to——

Mr. SILVERMAN. Don't I get to start all over again?

Mr. TOWNS. I yield to the ranking minority member, Mr. Schiff. Sometimes we have more than one round.

Mr. SCHIFF. Actually, Mr. Chairman, I think Mr. Silverman answered my questions earlier. I have no questions for Mr. Silverman and yield back.

Mr. TOWNS. Mr. Horn.

Mr. HORN. No further questions, Mr. Chairman.

Mr. TOWNS. Let me thank you again for your coming and testifying, and I would appreciate it if you would get back to us with the position of the association on that particular question. Thank you very much.

Mr. SILVERMAN. Thank you.

Mr. TOWNS. Panel number three. Mr. Errol T. Louis, treasurer of the Central Brooklyn Federal Credit Union; Jean Ann Fox, president of the Virginia Citizens Consumer Council; and Chris Lewis, director of the Banking and Housing Policy, Consumer Federation of America.

So why don't we start with you, Mr. Louis. Welcome.

STATEMENT OF ERROL T. LOUIS, TREASURER, CENTRAL BROOKLYN FEDERAL CREDIT UNION

Mr. LOUIS. Good to see you.

As a Brooklynite, I am especially grateful to you, Mr. Chairman, for inviting us to appear here today.

My name is Errol Louis. I am treasurer of Central Brooklyn Federal. Central Brooklyn Federal is a community owned, federally insured savings and lending institution serving the neighborhoods of Bedford-Stuyvesant, Crown Heights, and Prospect Heights in New York City. We were chartered in January of this year and opened in April. Like all credit unions, Central Brooklyn Federal is structured as a nonprofit cooperative, where depositors vote for a board of directors—with one vote per depositor, regardless of how much is saved. At 75 days old, the credit union has grown to a half a million in assets, serving more than 300 local residents. We expect to top $1 million in assets by the fall, and we will be offering checking accounts, lines of credit and a variety of other financial services by the end of the year.

I would like to describe to you the results of research we have conducted on check cashing stores in Central Brooklyn, which is home to one of the Nation's oldest and largest African-American communities. Our information should prove useful to the subcommittee as it examines the best way to ensure that financial institutions help buildup the economies of our inner cities rather than speed their deterioration. I will also make the case for the Federal Government to support an existing network of community based, federally insured financial institutions to provide transaction services in the inner city at a fair price with economic development as the end goal.

Generally speaking, financial services in Central Brooklyn are inefficient, inadequate and expensive. Between 1978 and 1990, 30 percent of the bank branches in the poorest neighborhoods of Brooklyn were shut down. Nationwide, on average, there is one bank branch per 5,000 people. In Central Brooklyn, there is one bank branch for every 23,000 residents.

During the same years that banks were withdrawing from low-income communities in Brooklyn, the number of check cashing out-

lets exploded form 18 to 115—an increase of 538 percent. In Central Brooklyn there are 26 licensed check cashing outlets, compared to only 15 bank branches—and two of those branches have already given notice that they will be closed within a few months. While Central Brooklyn has 15 percent of Brooklyn's total population, we have 22 percent of all the check cashers.

What this means is the Central Brooklyn has a shrinking number of financial institutions that can aggregate people's funds and use them to reinvest in the community's housing, job-creating businesses and other needs. Instead, the absence of banks and the prevalence of check cashers simply makes it easier for people to spend their entire paycheck within a few days instead of saving a little for a house, a small business or a child's education. Many check cashers in our area also sell lottery tickets or rent video cassettes from the same office, providing a wide range of ways to separate low-income people from their money. I know of one former check casher who also owned a liquor store directly across the street from the outlet. He retired a wealthy man, while the neighborhood that made him rich is still in ruins.

Let us imagine we wanted to design an economic system that would keep poor people poor. Such a destructive system would divert funds away from savings or investment in homes, businesses, and education. Our imaginary poverty-maintenance system would also need to have some mechanism to make it as easy as possible for people to waste money on alcohol, gambling, and frivolous consumption. Unfortunately, we don't have to use our imaginations; what I am describing is exactly what we have today.

Our credit union and others like it have been formed as a positive alternative to the destructive, predatory financial network that has arisen in Central Brooklyn. We intend to offer check cashing and money orders for our members at reasonable rates, along with a chance to save and borrow money—the building blocks of economic development. While I commend this subcommittee for examining the role that check cashers play in low-income communities, I would suggest that the problem is not simply excessive profit, but a lack of community ownership and reinvestment of those profits.

My suggestion to the subcommittee is that you study ways that community development credit unions like mine can offer check cashing and automated payment of public assistance and other government benefits. Not only can we beat the high fees charged by the check cashers, we can also offer people a chance to save a little of what they make, as well as credit counseling consumer education and eventually a chance to borrow and join the economic mainstream.

At present, Mr. Chairman, New York City provides check cashers with a virtual monopoly on welfare benefits transfers. Our credit union, and dozens of other insured financial institutions like it can offer a much more economically sound alternative. With your help, we can create a pilot project showing the positive effects of using credit unions to distribute benefits and cash government checks. To do so effectively, however, will require some regulatory flexibility from the National Credit Union Administration which insures and regulates credit unions. Congress should ask NCUA and interested credit unions to create a national pilot program to show how com-

munity development credit unions can provide check cashing and other key transaction services in low-income neighborhoods.

Central Brooklyn Federal strongly supports President Clinton's plan to provide Federal support for the creation of a network of community development financial institutions. In addition to supporting the President's forthcoming community development banking legislation, this committee should look to these institutions as the backbone of a national network of community-based alternatives to check cashers.

This concludes my presentation, Mr. Chairman. I will be glad to expand upon this testimony or answer any questions from your or other members of the subcommittee.

Mr. TOWNS. Thank you very much, Mr. Louis.

Ms. Fox.

STATEMENT OF JEAN ANN FOX, PRESIDENT, VIRGINIA CITIZENS CONSUMER COUNCIL

Ms. FOX. Yes, sir. I am Jean Ann Fox, president of the Virginia Citizens Consumer Council. We are a membership consumer advocacy organization. We have been working toward affordable banking services for low and moderate income consumers in Virginia for the last several years, and have had an interest in the business of check cashing.

In Virginia, check cashers have mushroomed in the last few years. They are clustered around military bases and in low income neighborhoods.

We did a statewide survey of check cashing fees in 1989 and updated just a bit of it this last week in anticipation of meeting with you. The fees that we are finding range from 2 to 10 percent of the face value of checks. In addition, check cashers charge per-transaction fees. So it is difficult for consumers to know how much the check cashing is going to cost in advance.

Over the last few years, VCCC has done some research into the banking needs of low income consumers, and in my prepared testimony I provide a good deal of that information for the committee. The basic finding is that people who are on public assistance do not have checking accounts, and the reason they do not have checking accounts is because they don't have enough money to put in the bank to then turn around and take out for their basic needs.

The fees are too high, the banks are not conveniently located to them, and the fees that go along with bank accounts make having a checking account too high a risk venture. When you run the risk of incurring a $25 bounced check fee every time you subtract incorrectly, you cannot afford to have a checking account. We found that 88 percent of consumers on Aid to Families with Dependent Children did not have checking accounts. We also found out that the people who have trouble getting their checks cashed frequently work. Almost half of the people who told us that they had trouble getting checks cashed worked either part or full time.

Your proposal to require banks to cash government checks is a step in the right direction, but it won't help those people who have other types of checks that need to be cashed. Listening to earlier comments before you, I would like to share some of our experience and what we have learned to shed some light.

The check cashers tell you that consumers go to check cashers just as a matter of convenience, just as consumers stop by 7–11 instead of going to Safeway. They know it is going to cost a little more, but it is open at the right hours. It is my firm belief that the consumers who pay the high fees at check cashers do so because they have nowhere else to go or they do not believe they have anywhere else to go.

We recently participated in a bank fee survey along with the Consumer Federation of America, and we found that about half of the banks that we surveyed said that they do in fact cash at least government benefit checks for consumers. I have never seen a sign in a bank lobby saying "we cash checks." I have never seen an advertisement. I have never seen any community outreach that says to the community we will not treat you as a suspected criminal if you come in with a check to be cashed if you are not a depositor here. The only way you would know that banks cash checks for nondepositors is if you get the schedule of bank fees and can find that line on the back of the fee schedule that says they charge from $3 to $5 to cash a check.

A lot has been said today about letting the States deal with regulating check cashers. I think that that is probably a more practical solution than recommending that the Federal Trade Commission get into licensing or that the Congress get into setting prices. My testimony makes the suggestion that if the FTC model is not feasible that you consider outlawing check cashing for a fee unless the State regulates it. And my proposal sets out some fairly stringent regulations.

A permutation on that suggestion is that your legislation state that checks could not be cashed for more than, say, the 0.85 percent of face value unless the State regulates the industry. My experience with check cashers in Virginia is that they would like to be registered. They would like the imprimatur of government respectability without the rigorous regulation that should go with an appropriate licensing mechanism.

If check cashers are going to be licensed to do business in a State, they should have to meet entry retirements. Their owners and principals should not have a criminal record. They should have reasonable capitalization requirements. They should be audited and examined. They should have minimum standards for posting the rates.

I don't know how many people can compute what 1.75 percent of $325 is if one is standing in front of the teller. You need disclosure that tells consumers what it is going to cost to get their checks cashed. Fees should be posted; they should be quoted over the phone.

Yesterday I called Any Kind Check Cashing in Richmond to find out what they were charging and they told me it is not company policy to quote their rates over the phone. If you go in the lobbies of these check cashers, they are selling lottery tickets and money orders, they are doing faxes, they are doing quick refund income tax filing. They have a wide variety of services that they offer to this clientele and those services ought to be looked at by State regulators.

I don't believe that you should be able to sell lottery tickets or provide any other form of gambling at a check cashing outlet.

Finally, I would like to point out in Virginia we have had a lot of problems with check cashers becoming payday lenders. It is true that this was reported to our Bureau of Financial Institutions by some members of the check cashing industry, but reporting violation of State law is not self-regulation. That is simply taking advantage of State law enforcement that is on the books.

What check cashers were doing in Virginia and for which the State Attorney General has filed charges is they were charging about 23 percent of the amount of the check to cash it and hold it for 5 days or up to 15 days. The annual percentage rate for this kind of lending runs about 2,000 percent. If that is not loan sharking, I don't know what is.

We have had some problem with this completely unregulated industry.

Thank you.

[The prepared statement of Ms. Fox follows:]

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VCCC
VIRGINIA
CITIZENS CONSUMER COUNCIL

STATEMENT OF VIRGINIA CITIZENS CONSUMER COUNCIL

before

SUBCOMMITTEE ON HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS

COMMITTEE ON GOVERNMENT OPERATIONS

on

CHECK CASHING ACT OF 1993
H. R. 1448

The Virginia Citizens Consumer Council is pleased to participate in this hearing on legislation to protect consumers of check cashing services. VCCC is a statewide membership consumer advocacy organization. We have worked for affordable basic banking services in Richmond and Washington over the last decade. We commend Representatives Fields and Wynn for recognizing the plight of consumers left out of the mainstream banking system.

VCCC began publishing surveys of check cashers' fees in 1988. We updated the survey for a General Assembly study committee in December, 1989. At that time the average fee for cashing a $500 Social Security check was $14.71 compared to a national average of $8.47 (CPA 1987) and $3.85 in New York where check cashing rates were regulated. In Virginia, a $369 AFDC check cost $8.13 to cash, compared to $6.24 nationally and $2.87 in New York.

Since 1989, the check cashing industry has boomed in Virginia, with outlets springing up outside military bases and in lower income urban areas. As banks have consolidated and moved out of lower income communities, the check cashers have filled the vacuum. There is no state regulation of check cashing in Virginia which is typical of most states. A General Assembly study committee conducted an inquiry into basic banking issues in 1989 and concluded that check cashing did not need to be regulated by the Bureau of Financial Institutions. VCCC and other advocates for low income consumers disagreed.

Check cashers cash a variety of checks for a percentage of the face value, sell money orders, sell lottery tickets,

rant post boxes, and offer to file income taxes or to send faxes for customers. Their customers include transient consumers without checking accounts, low-income consumers, young military people and students, and consumers who do not have bank accounts due to a wide variety of reasons. Check cashers have branched into a second line of business in Virginia which has triggered a series of complaints from our Attorney General.

Since late last year the Virginia Attorney General has filed charges against five check cashing companies alleging violations of the Virginia Consumer Finance Act. Injunctions are in effect against four companies in Tidewater and Richmond, with cases scheduled to go to trial starting in August. The complaints allege that check cashers are making illegal short-term loans at annual interest rates as high as 2,000 percent APR by making "payday" loans. For example, Ameracheck charges 23% to advance funds against present or post-dated checks. The "loans" usually are for a few days until payday when the consumer either redeems the check with the face amount or allows the check to be processed at the bank. If the check is held for five days, the fee calculated using the actuarial method produces an APR of 2,190%; 1,095% if the check is held ten days, and 730% if the check is held for fifteen days. In Virginia lenders are prohibited from charging more than 12% interest on loans of less than $3500 unless they are licensed as small loan lenders or are exempt from the Consumer Finance Act.

VCCC is concerned about the basic business of unregulated check cashers. We believe that consumers who use their services have few real choices available for getting checks cashed. Just as we regulate small loan companies due to the lack of competition for necessitous borrowers, we should regulate check cashers as a form of financial institution in a position to exploit vulnerable consumers.

According to the Washington Post, the pool of consumers without checking accounts is growing and now approaches 14% of all households. In 1989, VCCC conducted a study of basic banking needs of low and moderate income consumers, involving personal interviews with 308 consumers at 29 sites across the state. We found that 88% of AFDC recipients, 29% of Social Security recipients, and 67% of people on SSI did NOT have checking accounts. Families without checking accounts compared to those with accounts were larger,

younger, less likely to be college educated, more likely to be black and are slightly poorer. The impact of check cashing fees on the limited public benefits and meager paychecks of these families is severe. Charging 2% to cash a welfare check is equivalent to a 2% cut in benefits.

The primary reasons given for not having a checking account were inability to save enough to open one, unaffordable fees, difficulty in managing the checkbook, and fear of bounced check charges. Twenty-seven percent of consumers without checking accounts reported that they had trouble cashing their checks. Of this group, 80% were below the federal poverty level, 43% were employed full or part-time. Just requiring banks to cash government checks will not meet the needs of the working poor.

The legislation proposed by Representative Fields addresses many of our concerns about the business of check cashing, which include fair fees, adequate oversight, and reasonable identification standards for check cashers; bank obligations to cash government checks for nondepositors; and a thoughtful study of future methods of delivering benefits.

With short notice for this hearing, we contacted a small sample of check cashers to find out the trends in fees. In Newport News, Dominion Check Cashing is charging 3% to cash a government check if the customer has identification and 10% without ID. Nongovernment checks cost 10% of the face value. For $9.95 you can have a photo ID card with name, address, birth date and Social Security number.

Virginia Check Cashers, Inc. in Newport News charges 2.5% or $10 to cash government checks. American Check Cashing has no posted fee schedule but says that they charge 5% to cash government checks. Allstate Express charges 2% to cash government checks with an in-state ID and 4% to cash out-of-state government checks.

The largest chain of Virginia check cashers is Almost a Banc with branches in Tidewater and Northern Virginia. They have the most complex fee schedule as well, charging from 2 to 10% to cash a variety of checks. Almost a Banc tacks on a computer surcharge and sets a minimum of $1.50 for all checks over $15 and a 10% charge on checks under $15.

Anykind Check Cashing in Richmond posts a list of ten different types of checks it will cash with fees ranging

from 2% to 10% of the face value of checks. This outlet refuses to quote rates over the phone and posts its charges on small type-written lists over the tellers' windows.

With fees this high, you would expect consumers to be complaining in droves. But you would be wrong. Almost no complaints are filed about the check cashing business. We believe that this is because their clients have nowhere else to turn for this service, are not empowered to complain, and wouldn't know where to go for help.

On the provisions of H.R. 1448, VCCC makes these observations. We fully support the laudable intent of Representative Fields to protect the most vulnerable consumers outside mainstream banking from fee gouging by check cashers. We have questions about the implementation proposed. The bill sets a maximum fee for cashing checks and requires that the Federal Trade Commission license check cashers nationally. We know of no other service where Congress sets the price by statute or which is licensed by the FTC.

Another way to accomplish the same goal is to ban the business of check cashing for a fee UNLESS the state provides a regulatory structure that meets these standards:

1. Sets fees related to actual costs, sets fees that are reasonable in light of the types of checks being cashed and in recognition of the level of competitiveness in the industry and choices available to clients.

2. Restricts other lines of business on the same premises to those which clearly benefit consumers and bans the sale of lottery tickets and other gambling.

3. Sets entry requirements including principals and employees of good character with no criminal record and adequate capitalization.

4. Audits and reviews compliance with state regulatory program.

5. Requires that fees be posted, representative charges for typical checks be posted, receipts that state amount of the check, the fee, the date, and the payor be given, and notice posted of where to file complaints.

6. Specifically prohibits check cashers from lending money or offering credit services.

Under this proposal, check cashing would only be permitted in states that regulate the business in the consumer interest. The Congress would set the basic standards and states could adapt to fit local conditions.

Section 4 of the bill requires banks to cash government checks for nondepositors. We support this reasonable requirement on financial institutions to serve the basic banking needs of their communities which we believe they should already be doing under the Community Reinvestment Act. VCCC recently surveyed 31 major banks and thrifts as part of CFA's 1993 Bank Fee Survey. We found that half say they cash government benefit checks for nondepositors with identification. The typical fee is $3, with some banks cashing checks for free and other charging as much as $5 per check. Section 4 is silent on the fee to be charged for cashing checks by banks. We would recommend that the Federal Reserve be asked to determine the actual cost of bank check-cashing and set the permitted fee to be charged. Banks should also be required to publicize the availability of check cashing services. I have never seen a sign, advertisement, or posted notice in a bank lobby that checks will be cashed. This service shows up as one of many miscellaneous fees on the back of bank fee schedules. It is no wonder that consumers who have no history of dealing with banks do not know that some banks will cash checks for them.

Section 5 restricts the addresses to which federal agencies may mail checks. If the goal here is to prevent check cashers from directly receiving citizens' checks, the bill could explicitly bar mailing checks to cashers. The four permitted addresses may be too narrow to accomodate custodial arrangements for consumers. A signed permission to mail checks to the addresses of adult children, trustees, or other responsible persons could be added.

Section 6 requires a study of electronic benefit delivery systems. The Federal Reserve is in the process of considering expanding the protections of Reg E adopted under the Electronic Funds Transfer Act to cover electronic benefit systems. Through a Fed staff interpretation of the law, welfare recipients have been denied the protections of Reg E for purposes of the EBT pilot programs. The Fed's proposal to extend Reg E to EBT will give poor consumers the same protection that affluent consumers now enjoy in using

ATMs. Consumers should have no liability if their benefits are stolen from ATM accounts just as they have no liability if benefit checks are lost or stolen. Reg E requires that ATM errors be corrected within 10 days. Recipients of public benefits by electronic delivery should not have to wait months for a correction when their benefit funds are wiped out through a computer glitch or other system error.

We recognize that Electronic Benefits Transfer can improve life for welfare recipients, but it can also cause new problems. Without adequate protections, EBT can seriously harm innocent recipients victimized by fraud or theft of benefit funds. Any required study of EBT should explicitly call for Reg E-type protections. VCCC also objects to any program that mandates EBT for those clients who do not wish to use ATMs or are unable to use them.

Section 7 definitions should be clarified on item 5 to indicate that only one form of identification is sufficient. VCCC's study of low-income consumers found that most people have one form of picture ID available but not two.

Thank you for this opportunity to support the goal of protecting consumers left behind by the banking industry by regulating check cashers and requiring banks to cash government checks for nondepositors.

Jean Ann Fox
President
June 29, 1993

Mr. TOWNS. I thank you. Mr. Lewis.

STATEMENT OF CHRIS LEWIS, DIRECTOR, BANKING AND HOUSING POLICY, CONSUMER FEDERATION OF AMERICA

Mr. LEWIS. Thank you, Mr. Chairman, I submitted a written statement and I will attempt to summarize that here now.

Mr. TOWNS. Your entire statement will be included in the record.

Mr. LEWIS. Thank you. The Consumer Federation is pleased to be able to testify today before the subcommittee on H.R. 1448 and generally on the availability of regulated banking services for low and moderate income consumers.

I am Chris Lewis, director of banking and housing policy for the Consumer Federation. Mr. Chairman, we would like to commend you for holding this hearing and addressing the attention of the subcommittee to this important area so early on in the Congress.

The legislation that Congressman Fields and Wynn have proposed simply aims to extend basic consumer protection to millions of American citizens who are forced to conduct their financial affairs outside of our Nation's insured and subsidized banking system. This legislation recognizes the reality that nearly 20 percent of our Nation's citizens and well over half of low and moderate income citizens do not have bank accounts and must turn to high-cost check cashing operations to convert payroll and government checks into cash to pay for the basic necessities of their daily existence.

For the past decade, the Consumer Federation has placed basic banking services and the need for consumer protection in the provision of basic financial services very high on our legislative agenda. We believe that all Americans should have access to basic financial services from financial institutions that enjoy subsidized insurance, low cost loans from the Federal Reserve, and other forms of government subsidy. Unfortunately, the Congress has failed, in recent years, to provide these basic services through our insured depository institutions.

This morning, Congressman Wynn alluded to the fact that during the 1980's the banking industry began to devise and continues to devise several ways of locking the doors, locking their doors on low and moderate income consumers, who, as he pointed out, often have low balance yet high volume account profiles. These industry marketing strategies have resulted often in the very pricing out of consumers through prohibitive minimum balance requirements and generally exorbitant account maintenance fees.

As Ms. Fox pointed out, CFA recently conducted a national bank fee survey which we released at the beginning of this month on data collected during the month of April. Our survey results revealed, as they have in the past, that minimum bank requirements and checking account fees have skyrocketed. They have skyrocketed at a rate greatly in excess of the rate of inflation over the period we looked at. Fees for bounced checks jumped 21 percent over the 3-year period we examined, 3 times the rate of inflation, with no evidence being presented by the industry that the cost of handling bounced checks had increased.

We are particularly concerned about bounced check fees because they are often employed by the banking industry as a gatekeeping

device to bar entry for lower and moderate income consumers from the banking system. Single-item fees, like bounced check fees, disproportionately deter low-income consumers from establishing and maintaining an account relationship with insured institutions, and we are particularly concerned about the use and the continued use of high fees in this area to lock lobby doors to lower income consumers.

More directly to the legislation before us, Mr. Chairman, we are very much a paper society. Our citizens are paid by check. Federal and State governments distribute most everything by check; social security, income tax returns, food stamps and whatnot. Private payroll is much the same. We rely very much on paper, and individual consumers, in turn, must meet their bills through some form of paper, and for the affluent this seems a very reasonable system, but as witnesses today have testified, for low to moderate income consumers, this can be a costly nightmare and it may mean giving up as much as 20 percent of the face value of a check to simply liquify those earnings into a usable form in our economy.

I don't need to point out to you—and Congressman Fields noted this morning, that the check cashing industry, as the industry itself noted, is a very fast growing enterprise. News reports indicate that since the mid-1980's the number of check cashing firms across the Nation, self-identified check cashing firms, has more than doubled.

Today there are more than 5,000 self-identified check cashing firms nationwide, many of whom are increasingly finding ready financing in the capital markets. In fact, many of them are being funded by the very banks that have pulled out of many of the communities the check cashing firms are now serving. And the number grows every day. It is ironic that we now have more check cashing companies than we do savings and loans in this country.

I do not want to spend excessive time describing to you the nature of the excessive charges in this industry. The last time the Consumer Federation conducted a survey of check cashing fees, we found that, on average, consumers were being charged 3 percent of the face value for a government check, but 10 percent fees for payroll checks and 20 percent fees for personal checks were very common in the marketplaces that we surveyed.

An economist, John Caskey, at Swarthmore College, estimated a family with $24,000 in earnings, at rates in the marketplace 3 years ago, would have to spend $400 to $500 a year to meet their payment system needs through the use of check cashing firms. But the Consumer Federation is particularly concerned, beyond the issue of cost, that a major problem with check cashing operations, whether pure check cashing firms or the liquor store variety, is the fact they provide no stability and no building block for a local community.

A check cashing transaction is a very sterile transaction with a fee that, in our belief, results in a general eroding of the quality of life in these communities, communities that, as has been noted, are very much cutoff from the mainstream banking system. We believe any affirmative action by the Congress to address this problem in the market place must also consider, in addition to regula-

tion of the check cashing firms, per se, the expansion of access to insured depositories for lower income consumers.

CFA endorses the direction Congressman Fields and Congressman Wynn's legislation has charted. It simply, as I mentioned earlier, seeks to extend basic consumer protection to individuals seeking to cash payroll and government recipient checks. The Check Cashing Act will provide for uniform regulation of check cashing operations, including the establishment, as Ms. Fox noted, of market entry requirements and minimum solvency standards.

And solvency standards are a very critical issue. We would be glad to provide for the committee recent press clippings on the matter of consumers who have lost the full face value of their checks when money order firms have fallen into insolvency and those instruments have then become an absolutely worthless instrument in the marketplace.

This is a growing problem, and again the legislation's requirement that there be minimum solvency standards, we think, will begin to address the need for protection in that area. The legislation, as has been noted earlier, will curb excessive price gouging by establishing firm price ceilings and we very much endorse the legislation's provisions to mandate government check cashing at insured depository institutions. These are all critical first steps in extending basic consumer protection to millions of American citizens who are beyond the reach of the marketing plans of federally insured banks.

We have a couple of recommendations in our written statement with respect to the specific legislation. We more broadly urge the Congress to consider enacting basic banking legislation, again, to expand access to insured depositories and to explore the need to preserve insured depository institutions' branch representation in lower income communities. We need to do both: we need to encourage the banking industry to serve these consumers more readily through their existing lobby doors and not lose those lobbies; and, we need to extend basic consumer protection to the check cashing firms.

I would be glad to answer any questions.

[The prepared statement of Mr. Lewis follows:]

Consumer Federation of America

TESTIMONY OF CHRIS LEWIS
DIRECTOR OF BANKING AND HOUSING POLICY

CONSUMER FEDERATION OF AMERICA

BEFORE

SUBCOMMITTEE ON HUMAN RESOURCES AND
INTERGOVERNMENTAL AFFAIRS

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

U.S. HOUSE OF REPRESENTATIVES

ON

H.R. 1448

HONORABLE EDOLPHUS TOWNS
CHAIRMAN

JUNE 29, 1993

1424 16th Street, N.W., Suite 604 • Washington, D.C. 20036 • (202) 387-6121

The Consumer Federation of America is pleased to be able to testify today before the Subcommittee on Human Resources and Intergovernmental Relations on the matter of H.R. 1448, the "Check Cashing Act of 1993", and the availability of regulated financial services for low- and moderate-income consumers generally.

Mr. Chairman, you are performing a great public service in focusing early attention on H.R. 1448, legislation designed to provide protection for the millions of American citizens who have been abandoned and ignored by the nation's insured and subsidized banking industry.

This prompt scheduling sends a very welcome signal that this Subcommittee -- and hopefully the Congress -- puts a high priority on the critical need to stop the gouging of low- and moderate-income consumers by unscrupulous check cashing firms and money exchangers.

CFA

The Consumer Federation of America is a coalition of more than 240 pro-consumer organizations from throughout the nation with a combined membership of over 50 million. CFA's primary role is to represent the interests of consumers before the U.S. Congress and federal regulatory agencies in a broad range of policy areas including that of financial services.

THE FINANCIAL SERVICES BACKDROP TO H.R. 1448

These hearings today are particularly timely. CFA released earlier this month a national bank fee survey -- Crushing Consumers: Rising Bank Fee Burdens -- which provides yet more evidence that millions of Americans lack access to our nation's banking system and the benefits of on-going banking relationships with insured depository institutions -- relationships that are too often taken for granted by those fortunate enough to have access to our mainstream banking system.

Representative Cleo Fields bill, H.R. 1448, recognizes the reality that nearly 20 percent of our nation's citizens -- and well over half of low- and moderate-income citizens -- do not have bank accounts and must turn to high-cost check cashing operations to convert payroll and government checks into cash to pay for the basic necessities of daily existence. In broad outline, the Fields legislation would place limits on these charges -- limits on how much of a worker's pay goes to pay off the check casher. It would establish solvency standards for money exchangers. And, it would

require Federally insured banking institutions to provide at least the minimum service of cashing a check issued by a governmental unit when proper identification is presented.

For the past decade, the Consumer Federation of America has placed basic banking services high on its legislative agenda. CFA believes that all Americans should have access to basic services from financial institutions that enjoy subsidized insurance, low cost loans from the Federal Reserve, massive government guarantees, lines of credit at the U.S. Treasury, secondary market access and almost always a benevolent fail-safe regulatory system. But, Congress has repeatedly failed to provide these basic services and neither the House nor the Senate Banking Committees have placed the issue on their agendas for the 103rd Congress.

That is why we welcome the initiative of the Subcommittee on Human Resources and Intergovernmental Relations and the aggressiveness of Chairman Townes in giving this legislation prompt consideration. The introduction of H.R. 1448 by Congressman Fields and these hearings we hope will be the opening shot in a battle to bring economic justice to the millions of American families who today must give up part of their income and turn to high cost and often underground sources to carry out basic economic transactions.

The lack of regulated banking services among many low- and moderate income consumers and within their communities -- including check cashing services -- are a major financial force that creates an upside down economic system where the people who are least able to pay in our society invariably are called upon to pay the most. The poor in our society literally pay for the privilege of being poor. No where is this more pronounced and more devastating than in the financial service arena including and, perhaps, most immediately, in the need of our nation's citizens to cash payroll and government drafts.

This is a paper society. People are paid by check. Federal and State governments distribute most everything by check -- social security, income tax returns, food stamps, employee pay and social assistance. Private payrolls are much the same. And, individuals must, in turn, pay almost always with some form of paper -- checks or money orders. For the affluent, this seems a reasonably simple system. But, for the low- and moderate-income consumer it is a costly nightmare. It means giving up to 20% of the face value of a check to a check cashing firm or a liquor store or some other operation that grabs a painful portion of an individual's funds.

And, it often means traveling by public transportation -- another added cost -- to a check cashing operation and the carrying of cash on the street. Read through any weekly compilation of crime stories and you will find cases where a victim was robbed enroute home from a trip to the check casher. In short, for lower income

Americans our financial services system is often dangerous as well as costly.

THE RISE OF UNDERGROUND BANKING

As the banking industry has gone upscale a new class of financial entrepreneurs have sprung up to meet the basic banking needs of these exiled consumers.

Led by check cashing outlets and pawn shops these fringe bankers include rent-to-own firms and consumer finance companies. In the opinion of CFA, all are woefully underegulated and prone to extract high prices from their customers who have little choice but to patronize them.

The check cashing business is one of the nation's fastest growing enterprises. From 1987 to 1990, three short years, the number of check cashing stores more than doubled from just over 2,000 to nearly 4,300. Today, there are more than 5,000 self-identified check cashing firms nationwide -- many of whom are finding ready financing in the capital markets and with the nation's largest commercial banks. And, the number grows everyday. In fact, we now have more check cashing companies than we do savings and loans.

In addition, there are thousands of less formal check cashing operations flourishing -- liquor stores, convenience stores, grocery stores and enterprises that spring up in the underground economy. In the Washington DC market, some liquor stores advertise in the "check cashing" sections of the yellow pages -- something that should indicate just how valuable this service is for the liquor stores.

Consumers pay a pretty price for having no other option than check cashing firms to meet basic household expense account needs. CFA's last survey of fees levied at check cashing outlets in 1989, revealed that on average firms charge slightly less than 3% of the face value of a check, but 10% fees were not uncommon and at some firms consumers had to fork over 20% of the face value of their payroll checks.

The upward curve on the growth of check cashing stores and related underground financial services are in direct correlation to the loss of bank branches in the urban areas. As commercial banks have closed branches, the check cashers have moved in and found a lucrative market -- a market whose income and profits are deducted from the checks of workers, the elderly, and the poor -- all of whom make due in exile from our nation's publicly-supported banking system.

In recent years, since the advent of the financial deregulation binge of the 1980s, banks have devised several ways of locking the doors on low- and moderate-income consumers. Lobby doors have been padlocked as banks physically removed themselves from poorer communities. In addition to closing branches, banks have often simply priced these consumers right out of the lobby through prohibitive minimum balance requirements and exorbitant account maintenance fees.

Our recent bank fee survey, based on data collected in April of this year, revealed that minimum balance requirements and checking account fees across the board have skyrocketed over the last three years. Fees for bounced checks jumped 21% -- three times the rate of inflation over the same period -- with no demonstrable evidence from the industry of a proportionate increase in bank handling costs. Bounced check fees are often employed by the industry as a gatekeeping device to bar entry for lower income consumers to the banking system. Exorbitant single-item fees, like bounced check charges, disproportionately deter low-income consumers from establishing and maintaining deposit account relationships with insured institutions.

Typical is the story of a local nurse at Children's Hospital as detailed in the New York Times a few months ago [article attached]. She had a bank account at a branch in her neighborhood and regularly deposited her check there. But, the bank kept raising the minimum balance and eventually she could not meet the requirement and found it cheaper to close the account and turn to a check cashing operation. Now, this was a nurse with an annual income of $24,000 and the bank forced her out by the simple method of pricing -- device that is being used as a subtle means of discriminating against persons of lower income, color, the elderly, welfare recipients and others that some banks believe unattractive and unprofitable customers.

John P. Caskey, an economist at Swarthmore College, using relatively conservative data on average fees, estimated that a family of four with an income of $24,000 would pay about $400 annually if it cashed its pay checks at a check cashing store and bought just six money orders a month. In many areas the annual outlay is much higher. In all too many families, $10 or $20 a month expended in check cashing fees are the difference between food on the table or nights where the children are put to bed hungry. Nationwide, check cashing operations take at least a billion dollars annually out of the pockets of people without banking accounts.

Not surprisingly, the abandonment by the banks and the presence of high cost check cashing operations are most prevalent in areas of the community populated by minorities. Prior to the protests in the wake of the Rodney King verdict last year, a survey in South Los Angeles -- a community with 400,000 predominantly

low-income and minority citizens -- found that the area had only 19 bank branches, but 133 check cashing stores.

Fringe banking, underground banking, pawn shops, check cashing operations, loan sharks and all the by-products of these activities are a major part of the unfair burdens placed on low- and moderate-income consumers of this nation. The poor pay more for virtually everything. Many families in the inner city do not have cars and many live miles from discount stores and supermarkets that abound in the suburbs and the more affluent neighborhoods. Even something so basic as a roll of toilet paper will cost an inner city resident, forced to shop at a convenience store, twice that paid by a suburban resident with access to a mammoth discount store.

But, beyond the cost, a major problem with check cashing operations -- whether pure check cashing stores or adjuncts to the peddling of liquor -- is the fact that they provide no stability, no building block for the community. It is a sterile transaction with a fee eroding the quality of life in these communities -- communities cut off from the regulated, protected and subsidized world of insured banking.

Banks, if they were operating properly, would provide much needed glue in these neighborhoods -- both psychological and real. In an ideal world, full-service bank branches would provide not only basic banking services -- including check cashing -- but would help retain money in the community and would be the source of mortgage, small business and development loans.

But, thanks to the failure of the banking industry, the regulatory agencies -- and frankly the Congress -- we do not have a banking industry that serves everyone and every neighborhood -- despite the fact that taxpayers have expended billions of dollars to support these insured institutions. Sadly, we remain a nation with two separate economies -- one for low- and moderate-income families and a quite different one for more affluent neighborhoods.

VALUE OF H.R. 1448

This is the stark reality and Congressman Field's legislation faces this reality squarely -- and provides basic safeguards against gouging by check cashers and does push banks to provide at least the minimum service of cashing government checks.

CFA wholeheartedly endorses the direction of the Fields legislation and urges this Committee to move as rapidly as possible to mark up the bill and to bring the bill to the floor of the House so that it may be enacted into law in this Session of the Congress. We hope that your colleagues on the Banking, Finance and Urban Affairs committee -- where H.R. 1448 was jointly referred -- will move with equal dispatch.

H.R. 1448, the "Check Cashing Act of 1993", will:

- Provide for uniform regulation of check cashing operations, including the establishment of market entry requirements and minium solvency standards. Far too many low-income consumers have lost all thier take home pay by the failure of unsupervised and unregulated money order firms.

- Curb excessive price gouging in the cashing of checks by establishing firm price ceilings.

- Mandate government check cashing at insured depository institutions.

These are critical first steps in extending basic consumer protections to millions of American citizens who are beyond the physical reach and marketing plans of Federally-insured banks.

RECOMMENDATIONS

1) **Enact H.R. 1448.**

H.R. 1448 will begin the long road of extending the scope of our nation's protected financial services marketplace to lower income consumers. It should receive expiditious consideration by this Congress.

CFA has two recommendations for the improvement of H.R. 1448:

a) Section 5 should be ammended to permit consumers to choose other places where governemnt checks can be mailed. Or, alternatively, Section 5 could be redrafted to simply prohibit check cashers from acting as maildrops for government checks.

b) The definition of "sufficient identification" should be clarified to state that a consumer need present only one picture identification in order to cash a government check.

2) **Expand Access to Insured Depositories.**

CFA regards the Fields legislation as the first step -- a very important step -- in the fight to bring banking services to all areas and all citizens on a non-discriminatory basis. We believe all Americans should have access to a banking system that is supported and subsidized by all Americans. We believe that regulators should step up pressure on banks to stop the wholesale closing of branches and we believe that when mergers and

acquisitions are approved there needs to be absolute assurance that the merged institution will serve everyone. For many years, Congress has had before it legislation to provide basic banking services, including check cashing services. The time has come to act and we hope that the Banking Committees of the House and Senate will not delay any longer.

Basic banking is the first step of including the poor, working poor and elderly in the nation's publicly subsidized banking system. A deposit account has important intangible values necessary to conduct day-to-day personal business. It is difficult, if not impossible, to build a credit record -- the key to economic opportunity -- without a banking account. For consumers, a banking account is a principle means of financial empowerment.

3) Preserve Bank Representation in Low-Income Communities.

To ensure that there is no further erosion of banking services for consumers and communities that exist at the outposts of today's banking system, CFA recommends that the Congress impose an immediate moratorium on branch closures in low-income communities. A prohibition on branch closures should cover all mergers and acquisitions and government assisted transactions and should remain in place until firm policy is in place at regulatory agencies for evaluating claims that there is an economic need to close any existing branch and a system is developed to guarantee the availability of alternative and affordable banking facilities.

A solution may involve getting the National Credit Union Administration to determine if a credit union could be established in the community. It may mean working with local governments and agencies to secure municipal deposits and coordinated economic development strategies.

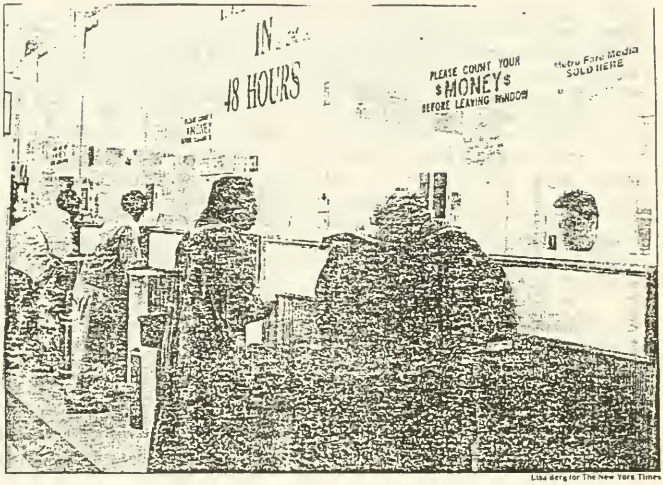
CONCLUSION

No one can build assets without a means to cash a full paycheck, pay monthly bills and safely save what is left over -- however meager. Ensuring access to basic banking services is the prerequisite of financial empowerment and lasting community economic development.

Representative Fields, as a freshman Member, has stepped forward to recognize this critical problem. We commend him for his leadership in an area badly in need of leadership. CFA also commends this Subcommittee and its Chairman, Representative Townes, for recognizing the critical nature of this legislation and for giving it such an early priority on the agenda of this Subcommittee.

This concludes my testimony.

Business Day
The New York Times
12/1/92



Lisa Berg for The New York Times

When minimum balances and service fees at banks are not affordable, people with low incomes turn to check cashers, often known as "welfare banks." In Anacostia, a poor Washington neighborhood with only two bank branches, Capitol Check Cashing on Alabama Avenue draws many customers.

They Will Gladly Take a Check

Cashing Outlets Fill A Gap Left by Banks

Special to The New York Times

WASHINGTON, Nov. 30 — Victoria Keyes, a nurse at Children's Hospital here, pays a check-cashing store roughly $13 every two weeks to cash her paycheck of about $500.

A bank would charge far less, but there is not one within walking distance of her house in the poor Washington neighborhood of Anacostia. Miss Keyes, who makes $24,000 a year, closed her last checking account because her bank started requiring minimum monthly balances in lieu of service fees — neither of which she could afford, she said.

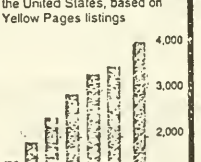
Miss Keyes knows by experience what consumer groups have come to conclude: the deregulation of financial services in the 1980's has made banking services unavailable or beyond the financial reach of many low-income people. Many have turned instead to cash-checking outlets that consumer-rights groups and state regulators accuse of widespread price gouging.

Fewer Bank Branches

Faced with stiffer competition after deregulation in the early 1980's, banks raised fees and imposed minimum balances to offset the higher interest rates they were then paying depositors. Many of them closed unprofitable branches, which were often in low-income neighborhoods.

Instead of a Bank

Number of check cashers in the United States, based on Yellow Pages listings



Sources: American Business Information

The New York Times

Security Pacific, for instance, closed 21 branches in Los Angeles between 1980 and 1989, 71 percent in low- and moderate-income communities, where household incomes are below $35,000, according to a study by Communities for Accountable Reinvestment, a Los Angeles-based coalition that monitors banking practices in low-income areas.

Check-cashing outlets, which do not take deposits but charge fees for cashing checks and issuing money orders, have multiplied to fill the void. "In four years," said John P. Caskey, an economist at Swarthmore College in Pennsylvania, "the industry appears to have doubled."

A Growth Industry

More precisely, there are an estimated 5,000 check cashers nationwide today, up from 3,000 in 1988, according to the National Check Cashers Association, a trade organization. Although some of the shops rely on word of mouth in the neighborhoods where they operate, an estimated 4,000 of the outlets formally advertise their services.

A study by Mr. Caskey for the Federal Reserve Bank of Kansas City, Mo., estimated that the industry in 1990 cashed 150 million checks worth $45 billion, mainly for people making between $18,000 and $25,000 a year. The check cashers took in $790 million in fees on those services.

The fees are the point of contention. Largely unregulated, check cashers, commonly known as "welfare banks" because of the large number of public assistance checks they process, charge more than banks. A 1990 study by the Consumer Federation of America showed that most charged from 1 to 3 percent of the value of a check to cash it. But some services, the study found, charged as much as 20 percent — or $20 for a $100 check.

Although banks have had to raise certain fees, according to the American Bankers Association, about 70 percent still charge no more than $3 a

Continued on Page D2

Check Cashers Profiting From Gap Left by Banks

Continued From First Business Page

month on basic accounts.

"Consumer groups don't view these outlets as good options for low-income consumers because of the gouging that occurs," said Michele Meier of Consumers Union.

But many people prefer doing business at these outlets because banks would require them to have money in a checking account to cover the amount of a check — money that fewer people have, as the number of families living below the poverty line has risen about 46 percent since 1978, to 35.7 million in 1991.

Several consumer groups, including Consumer Action and the Consumer Federation of America, are pushing for Federal legislation that would require banks to cash the checks of people who do not have accounts, offer more basic low-fee bank accounts and cash government checks free or for a very small fee, so that many more people could be brought back into the banking system. Several states are also considering such requirements, though only Connecticut has a law requiring banks to cash government or payroll checks.

Community groups and lawmakers also are agitating to strengthen and better enforce the Community Reinvestment Act, the 1979 law that requires banks to serve all communities equitably.

Regulatory Efforts

Bills to regulate check cashers are pending in several states. "There needs to be much tighter regulation of check-cashing facilities," said Ken McEldowney, president of Consumer Action in California, a member of the Consumer Federation of America. California passed a law in September placing a 3.5 percent ceiling on check cashers' fees.

Seven other states have ceilings on check-cashing fees, but even some of the lowest — 1.1 percent in New York, for example — do not make using check cashers economical, consumer groups say.

"In New York, check cashers cost consumers two to three times more than banks, which is not fun for low-income consumers," said Mark Green, the New York City Consumer Affairs Commissioner. Mr. Green's department is preparing the third installment of a report on the state's check-cashing industry called The Poor Pay More.

States with regulations often have hard time enforcing them. A study by New Jersey showed that although the state's ceiling on fees was 1 percent on in-state checks, one woman who did not speak English was charged $25 to cash a $268 Social Security check — a fee of about 9.4 percent.

Improving an Image

Members of the industry argue that they provide a necessary service in many communities, and they resent stereotypes of bullet-riddled storefronts owned by shady characters who feed off the poor.

"We think that's an image that needs to change," said Ray Hemmig, owner of ACE America's Cash Express in Irving, Tex., which has 240 stores nationwide. "We tend to be much more like a bank lobby, more upscale and more located in the suburbs."

The industry has indeed started to evolve. Though most outlets are still individually owned and operated, national chains like ACE are cropping up, with many of them now moving into the suburbs. ACE, for instance, says 70 percent of its customers have bank accounts — an indication, it says, that convenience, not cost, is the main consideration for its clients. The fact that most of these outlets have longer hours than banks is another draw.

These businesses' services have also multiplied. First appearing in the Depression because of banking problems and the phasing out of cash paydays by employers, they specialized in cashing checks. Now, however, many also sell postage stamps, money orders and lottery tickets, and allow customers to wire money through Western Union or other types of electronic money transfers. Many will give cash-advance loans on individual income tax refunds. Some even dispense food stamps, under contract to the state.

In Victoria Keyes's Washington neighborhood of Anacostia, there are only two bank branches. An alternative is Capitol Check Cashing, in a strip mall on Alabama Avenue. It is owned by Peter Smilovsky, who has three other shops in Washington.

Until a few weeks ago, Janice Gore was one of Capitol's regular customers. Ms. Gore, a 39-year-old grandmother who receives welfare payments, recently arranged to cash her checks at a neighborhood liquor store where a friend works.

For the previous six years, however, she paid Capitol a fee of 2.8 percent, handing over $12 from each of her monthly $437 Supplemental Security Income checks and about $11 of her $409 Aid to Families With Dependent Children check. She then paid an additional 59 cents for each money order to pay her rent or phone bill.

"It was too expensive, but I had no other choice," Ms. Gore said, explaining why she went to Capitol for so long. "You're living from month to month, and a lot of people — the banks — won't take my checks."

A Check Casher's Defense

Peter Smilovsky says that his is not a gouging operation. He says he makes only a small profit and he has rent, insurance and security to pay for.

"No one is forcing these people to come in here," he said. "The fees are posted, we don't hide it." Mr. Smilovsky adds that if check cashers were closed down, people like Ms. Gore would have nowhere to go.

The study under way by the New York City Consumer Affairs Department has found that 30 percent of bank branches in the poorest fifth of neighborhoods in Brooklyn, grouped by ZIP code, were shut down between 1978 and 1990. In the Bronx, the figure was 50 percent. In the most affluent areas, only 15 percent of existing branches closed.

Some poor neighborhoods now have more check cashers than banks, Mr. Green said.

But Congressional efforts to require banks to cash Government checks and offer low-cost accounts have been blocked by banking lobbyists, said Nancy Coffey, a spokeswoman for Senator Howard M. Metzenbaum, Democrat of Ohio.

Mr. TOWNS. All right, thank you very much. Let me thank all three of you for your testimony. You have been very helpful in terms of pointing out some of the areas that we need to really closely examine.

Let me ask you, I guess, Mr. Errol Louis, I know in New York check cashers are permitted to dispense AFDC and food stamps. Credit unions cannot do that, but check cashing places can?

Mr. LOUIS. Right. At present, check cashers have sort of an arrangement. If you call the city welfare department, HRA, and ask how this stuff is done, they send you an application, which if you look at it closely really applies best to check cashers and almost to no one else.

At present, credit unions are not prohibited from doing it expressly, but it is difficult to get into the electronic system that they have set up. In addition, because we are federally regulated, our Federal regulator, I know, would not look kindly on it.

There is nothing explicit in the regulations that encourages community credit union participation in the distribution of welfare benefits, and that needs to happen. I think it needs to be recognized from the highest level that in a low income community, if there is a credit union there that is owned by the community, run on behalf of the community and providing financial services with the backing of Federal insurance, it is in a very good position to actually take the fee income and reinvest it within the community, which is what we would like to do.

So there are no explicit barriers on either side, but we are getting ready to go into some talks and negotiations with the city and the Federal bureaucracy, and anything that this subcommittee or your office personally could do to help us would be greatly appreciated.

Mr. TOWNS. Right. Thank you, Mr. Louis.

Ms. Fox, I understand there is a big problem in Virginia right now with this whole check cashing problem. Was your organization involved in terms of bringing that to the forefront?

Ms. FOX. We have helped funnel complaints to the Attorney General's office and to the Bureau of Financial Institutions. Essentially what some of the check cashing industry is doing is providing a very short-term loan to people who cannot quite make it until payday. And the fee that is being charged results in annual percentage rates of up to 2,000 percent or so.

In Virginia, you are not allowed to lend money for more than 12 percent interest unless—and one of the "unless's" is that you are licensed under the Consumer Finance Act. So our experience is that self-regulation does not work, and that this kind of abuse comes about when no one is regulating this part of the financial community.

But the Attorney General has gotten injunctions involving four check cashers which run several different brand name outlets, and there is one other complaint that has been filed involving a check casher in Northern Virginia. None of those have gone to trial yet.

Mr. TOWNS. Let me make certain I understand this. Is it that they have their own enforcement agents and all of that in the event you cannot pay? How does it work? The question is if I am slow about paying, what happens?

Ms. FOX. I am not sure how the check cashers are dealing with the enforcement on this loan mechanism. The way it works is that someone comes in and writes a check and this service is only available to people who have checking accounts, so you could come in and write a check for $261 and walk out the door with $200 in your pocket. However, many days later when you are going to pay back, you would come back and give them $261 or tell them that they could deposit your check. These are done either on present date checks or postdated checks.

Our Attorney General has alleged this is a violation of the Consumer Finance Act because they are unregulated small loan lenders. But I don't know what the practice has been in the enforcement end, or the collection end.

Mr. TOWNS. OK, thank you very much.

Ms. FOX. Thank you.

Mr. TOWNS. I yield to Congressman Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

Mr. Chairman, I have a couple of just clarifying questions I would like to ask first and then I have a broader based one.

Mr. Chris Lewis, I say that because we have two Mr. Lewis's on the panel, Mr. Chris Lewis, you made reference to the fact that in some cases the person who might own a check cashing operation might also sell lottery tickets or own a liquor store across the street and so forth. I don't know that the government can do anything about the opportunities that people have to spend their money on if they wish to. Is there anything in this legislation that deals with whether someone who owns a check cashing operation can also own a liquor store if they wish to or are you proposing——

Mr. TOWNS. That was Errol Louis.

Mr. SCHIFF. Oh, I am sorry I got Mr. Louis confused. I apologize.

Mr. LOUIS. Let me answer on the question of the gambling.

I run a federally insured financial institution. We cannot even run a bingo game because there is a clear understanding that you are not supposed to be running games of chance when you are handling basic financial transactions. In our neighborhood, there are twice as many, as I mentioned, check cashers as there are banks and they can do whatever they want.

So there probably needs, I would think, to be some kind of parity. If check cashers are going to be doing basic financial transactions, if they are going to be handling government funds, transferring government funds, there ought to be some kind of limit on the franchise of the kinds of business they can do. They can rent adult tapes while doing government business, they can sell lottery tickets while doing government business. It is inappropriate, I think, and as I mention, I think it does undermine the community economically.

The mention of the liquor store is just to point out that you have a situation where people don't really have a choice. You have some isolated areas where if you want your welfare benefits you have to go to this store. You have a nice little trap. You can buy yourself a lottery ticket, you can get some alcohol, you can rent a video cassette and there is such a basic need to do that stuff. It is almost a requirement that poor people go into that situation, so government on some level needs to be concerned about what they are

doing. Government contractors, is what I am trying to tell you this morning, are running gambling operations and there needs to be some kind of serious look at what that means.

Mr. SCHIFF. How are they government contractors?

Mr. LOUIS. In New York City AFDC benefits, welfare benefits are dispensed through check cashing outlets.

Mr. SCHIFF. OK. I understand. Thank you for that clarification. Please, Mr. Chris.

Mr. LEWIS. If I could point out the parallel to insured depository institutions.

Within insured depositor institutions the Congress has seen fit to be very careful about what can and cannot happen within the lobby of an insured institution because of the concern that a consumer in a lobby of an insured institution potentially can be abused when they have immediate access to their funds. Therefore, the Congress has seen fit to require very affirmative disclosures of the insured's status of various products that are marketed within lobbies and this is an adequate parallel here that we want to extend those protections into an industry that is providing an analogous service for a different class of consumers.

Mr. SCHIFF. Mr. Lewis, if I may continue, Mr. Chris Lewis, along those lines. Another question of clarification.

You mentioned in some cases there has been the failure of these check cashing institutions and people have lost the whole value of their check, if I understood your testimony correctly. Can you briefly give me an example of how—you say you have newspaper clippings on that. I am trying to perceive how that would happen. Because if I cash my check in one of these institutions, regardless of what I pay as a fee, it seems to me I walk out with whatever cash I am going to walk out with.

Mr. LEWIS. I am referring to money orders.

Mr. SCHIFF. So if I purchased a money order and the institution is no longer viable. I understand.

Let me conclude with this, Mr. Chairman. Let me say I think a message is coming out, or several messages are coming out very clearly here. I think the first message is that there are at least some of these check cashing operations that are engaging in predatory tactics. They are taking advantage of consumers who apparently have no alternative but to do business with these people if they want to cash a check, and they are being, frankly, price-gouged in the process.

However, there is also a message that the basic service itself of check cashing has expanded because of public demand for the service that is not otherwise available and that not everyone engaged in this profession is in fact gouging or abusing the public. Now, it seems to me that although I can acknowledge a problem, it doesn't mean we say right away the answer is the Federal Government begins a system of licensing kinds of businesses it has never licensed before. Seems to me the first level to approach this problem is to promote competition, to allow the consumers to have more choices in how they can handle their financial transactions.

Therefore, I turn to you, Mr. Errol Louis, as a representative of a financial institution, a credit union. You now know there is this huge market there of people who need to cash their checks. Why

don't the credit unions, as you indicated, why can you not go in and essentially drive the competition out of business as a fair approach?

Mr. LOUIS. We are 75-days-old. That is basically what we intend to do.

Mr. SCHIFF. Who is 75-days-old?

Mr. LOUIS. My credit union. We were just chartered a couple months ago.

We can do exactly that. By our estimate in Central Brooklyn, the relatively small area we serve, we think the 26 check cashing outlets are probably making about a half-million dollars in fees every month and——

Mr. SCHIFF. Every month?

Mr. LOUIS. Every month. We do want to compete for some of those fees because we are community owned and we will use the fees for consumer education and to underwrite loans to poor people. The National Credit Union Administration may or may not want us to do that. This is sort of a gray area. They have certainly not encouraged credit unions to get into this business.

Likewise, on the city level, where the rubber meets the road as far as the delivery of AFDC, they have likewise set up a system around the check cashing industry.

So we are stepping into some regulatory complications which I think you all can help us work through. What I am really calling for is a pilot project.

We will get in and get our feet wet. We will undercut the check cashers and provide the service in a reasonable way, in a humane way, and a nonpredatory way on behalf of the community. We are a nonprofit cooperative. That is what we do. We will need some help.

There are over 300 Community Development Credit Unions nationwide and I know that there are many of my colleagues who would like to do this in other places all around the country.

I would very much urge that our free market struggle is going to need some sort of regulatory obstacles removed. This is not the normal business of credit unions as far as the NCUA is concerned. There are only a handful of credit unions that concentrate mostly on low and moderate income communities.

NCUA will have to be educated and brought up to speed. A message from the top saying credit union check cashing is of benefit for these communities. This is something we would like to see would go a long way toward helping us.

Mr. SCHIFF. Let me conclude, and thank you for the bit of extra time, Mr. Chairman. I appreciate it.

To use your phrase, Mr. Louis, where the rubber meets the road, if a reasonable charge and a reasonable profit can be made in these areas providing this service, then I think you are federally insured, I assume.

Mr. LOUIS. I didn't.

Mr. SCHIFF. federally insured credit unions ought to be able to participate. If a reasonable profit cannot be made for a reasonable fee or at least break even, then those who charge higher fees have an argument there must be some risk involved they are taking to engage in this practice.

So I would be glad to work with you, Mr. Louis, to see which it is.

Thank you, Mr. Chairman, I yield back.

Mr. TOWNS. Thank you very much, Congressman Schiff.

Mr. Barrett.

Mr. BARRETT. Thank you, Mr. Chairman. From the testimony I am hearing today and perhaps my own perceptions, I certainly see the function that check cashing businesses provide; that there is a void there because traditional lending institutions have withdrawn from the community.

My concern as I mentioned in the earlier questions, is whether we do have a problem with price gouging and some of that can be remedied I think by having true competition, as Mr. Louis suggested. I am curious as to how much you charge for check cashing, your group, and how that compares to some of the check cashing businesses in your community.

Mr. LOUIS. We have not begun to offer the service yet. On a service-by-service basis, you can usually just come up with something that is reasonable and break even. We have, for example, a volunteer board of directors. We have lower costs. We have a lot of volunteers that work as tellers and so forth.

On some services, you know, the question of pricing is real flexible. Everybody who sells money orders is probably buying them for about 17 cents. If they sell them for $1.50 or $1 or for 75 cents, they are probably making money wherever they fall in that whole spectrum. So our commitment because we are member-owned, because our members, many of them, are people low to moderate income, are always going to be lower than or equal to the prevailing rates in the neighborhood.

If I go above that, as someone who is elected to my position, I will just get voted out.

Mr. BARRETT. I am of the belief that bright light is the best medicine for providing competition so that if you have consumers who know what the actual prices are, that that is the best way to foster competition.

Ms. Fox, you seem to be somewhat reluctant to have Federal involvement on this issue. I am curious as to whether you would support some sort of law that perhaps is analogous to the truth in savings law or some sort of consumer credit law which would require check cashing businesses in a comparable way to post what the costs are; whether that would be a step in the right direction or whether you would rather see the Federal Government stay out of it altogether?

Ms. FOX. It is not that I don't want the Federal Government in this area. It just seemed to me more practical and doable for Federal legislation to set some minimum standards and leave it up to the States to provide the enforcement through their banking regulators at the State level.

Mr. BARRETT. What type of minimum standards, again specifically, do you think would be most appropriate.

Ms. FOX. The minimum standards that I have laid out in my testimony were that no check casher could offer their services of cashing checks for a fee unless they were licensed by the State, and the part of the licensing requirements would be entry examination into

the background of the owners and the principals in the business. You don't want convicted money launderers running check cashing companies.

Also, their capitalization should be looked at. Their books should be audited annually, registration is not sufficient. You need licensing.

Mr. BARRETT. That doesn't get to the price issue, though.

Ms. FOX. On the price issue, the State regulators should set a reasonable fee based on the costs in that community. I feel uncomfortable agreeing with the check cashing industry on that point.

Mr. BARRETT. I don't think the check cashing industry would agree with you.

Ms. FOX. It should be done at the State level.

Mr. BARRETT. I think they would fight you at the State level.

Ms. FOX. They did. We tried to get the Virginia General Assembly to set up exactly this scenario and the Check Cashing Association went to our general assembly and said, trust us, we will regulate ourselves, and there may be some members of that industry who were willing to do some things in the right way, but they were not able to keep out other elements of the industry that have been caught in the loan problem.

But beyond setting rates that are reasonable at the local level, you also need the minimum disclosure requirements, fee quoting, the requirement that they give you a receipt that tells you how much the check was for and what the fee was and who the payer was and what the date is.

Mr. BARRETT. I would think that would be something that the industry would—that is a "no brainer" as far as I am concerned.

Ms. FOX. But there are check cashers in Virginia that do not post their fees, that will not quote them over the phone. I have never seen a check cashers fee disclosure done in terms of dollars. It is percentages. People cannot compute percentages in their heads. Competition will not in and of itself police this market. We regulate in Virginia small loan lenders because they are lending to people of last resort. I think that check cashing is to banking what small loan companies are to lending.

Mr. LEWIS. Congressman Barrett, if I could point out you are quite right to point out the need to have very firm disclosure requirements, and you cannot have a competitive market if you don't have consumers operating in it on the basis of informed decisionmaking. What Ms. Fox is pointing out is that there is a deliberate attempt by some participants in this industry to keep consumers in the dark and it is awfully hard to shop in the dark. That is the bottom line on that.

Mr. BARRETT. Thank you.

Mr. TOWNS. Thank you very much, Mr. Barrett.

Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman. I have enjoyed your testimony. I wonder, you have heard each other's recommendations. With whom do each of you disagree and why; if at all?

Mr. LOUIS. Well, as a regulated institution, I am generally not in favor of head-long regulation for its own sake. What was discussed earlier, Mr. Chairman, you mentioned that there are only

24 to 26 qualified inspectors to police this thing nationwide. That does not sound like a good idea to me.

But I do support the basic idea of the bill, which is to say you have to get some kind of handle on check cashing. Probably of the things I have heard from my colleagues, the things that sounded the best were the idea of having a Federal standard and requiring that States do something to get up to that minimum standard. I also support some of the basic things about provision of information.

You know, the rules are just uneven. I hear what is going on in Virginia and compare the situation to New York State. In New York, you go in and there is a whole chart inside the check cashing outlet describing what will happen if you try to cash a check for $100, $200, $300 and it is pretty clear. So some of that standardization, some of that equalization and some of the basics about making sure you are not allowing criminals into this business, I think are probably what the subcommittee should be looking to do.

Mr. HORN. Mr. Chris Lewis, any feelings on that?

Mr. LEWIS. I would, I think, only concur with Mr. Louis' remarks that a minimum Federal floor would be appropriate. Federal legislation, I think as Ms. Fox pointed out, I would agree with her point that you need a firm trigger to force States to act, a falling back being an enforceable Federal standard for a business operating in a State that had failed to pass an equivalent or better State law.

Mr. HORN. Ms. Fox.

Ms. FOX. I would agree with most of what Mr. Lewis said. I don't think you can wait on the development of community-based credit unions or wait on competition to simply take care of this market. The people who see 2 percent or more of their welfare checks or their social security checks or their paychecks disappear simply because they have to turn this piece of paper into spending money is just unconscionable. We should not allow that.

We should look at the tax dollars that are being spent to turn social security checks into spending money or military payroll checks into spending money. That is taxpayers' money that is going to check cashers instead of going to put milk on the table and I would like to encourage this committee to recommend legislation that provides consumer protections to low income consumers just as we do for middle class folks.

Mr. HORN. That is all, Mr. Chairman.

Mr. TOWNS. Thank you very much.

Let me just add one other thing that nobody has talked about. Some of these check cashing places provide auto registration and driving schools all connected with the same check cashing place. You can get your auto registered and all of that right along with the whole process. So I think that we need to talk about some kind of uniformity and some kind of regulation. I know that some of us sort of hate to see any more regulations coming from the Federal Government, but the point is I think we need to do something to make certain that there is some kind of uniformity. I am convinced there is a whole lot of "ripping off" of consumers. I can just imagine that if you get your check around 5 p.m., and everything is closed, then the rate might even go up because they know you cannot get it cashed after 5 p.m., or after 6 p.m., and I just can imagine if it

is on a Saturday night, you might even have a different rate on Saturday, and that kind of thing. So I think we need to try to provide some protection.

I yield to the ranking minority member.

Mr. SCHIFF. Mr. Chairman, thank you. I wanted to follow up basically on what you were saying and something Mr. Errol Louis said earlier.

Maybe this happens in New Mexico and I have just been ignorant because I am sure we have check cashing operations in New Mexico, but the AFDC connection, the fact that these places of business are public contractors, can you take a moment and explain how that works? What is the New York relationship with AFDC?

Mr. LOUIS. My understanding is that benefits are passed to the city of New York to distribute to its citizens, to the recipients. The city has chosen to distribute benefits using magnetic cards and a computer system. The recipient takes that magnetic card to any check cashing outlet that has a terminal—and that is where the money is in these low and moderate income communities, where the check cashers are—and you walk in with the little card. The teller sweeps it through the machine, the machine indicates what benefits the person is to get, and the teller counts out the money or hands them their food stamps. The recipient walks away or buys a money order or buys a lottery ticket or does some other kind of transaction.

Mr. SCHIFF. In that situation in New York where the check cashing operation is acting as a contractor for the State, does the recipient still have to pay a fee to get their AF?

Mr. LOUIS. No. The contractor gets a certain fixed amount for having done that transaction. It is a little under $3.

Mr. SCHIFF. So the issue there, if I am following you correctly, is not that the recipient loses a portion of the check as a fee, but there are offers to sell things right there on the premises, which could not be done, as you pointed out, in other commercial institutions.

Mr. LOUIS. That is right. The government has bundled all these people and delivered them here to do government business and the check cashers are selling clothes or tapes.

Mr. SCHIFF. The city of New York is delivering a bunch of customers to these operations.

Mr. LOUIS. Yes.

Mr. SCHIFF. And I will bet they pay them a fee for handling the AFDC. Boy, you get the government to pay you a fee to bring customers to your store.

Ms. FOX. Yes, yes.

Mr. SCHIFF. Pretty good, if you can get it. Pretty good work, as they say, if you can get it.

Ms. FOX. In Hampton, VA, food stamps are delivered by contract with the city, so, of course, people come in to get food stamps, and there they are to cash their AFDC check or whatever else they have. So it is a market.

Mr. SCHIFF. Then there is a fee. If you didn't get your check through that operation, then you pay a fee for cashing the check.

Ms. FOX. Yes. They charge 2 percent for welfare checks.

Mr. SCHIFF. I just want to conclude with there is no way we can prevent people from spending money the way they want to. There will be a liquor store, a video store, anything available, but I think the point about regulating businesses that are government contractors, essentially government financial institutions, I am not ready to run out and do it, but I think it has been a point that has shown some validity here today.

Thank you, Mr. Chairman.

Mr. TOWNS. Any other comments before we close?

Let me thank the witnesses. You have been very helpful in pointing out to us that there are some problems out there in the check cashing industry and we hope to be able to address them in the very near future.

Thank you very much for coming and providing your testimony.

Ms. FOX. Thank you.

Mr. LEWIS. Thank you.

Mr. LOUIS. Thank you.

[Whereupon, at 1:35 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

STATEMENT FOR THE RECORD OF THE AMERICAN BANKERS ASSOCIATION

TO THE SUBCOMMITTEE ON HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS OF THE HOUSE GOVERNMENT OPERATIONS COMMITTEE

CONCERNING H.R. 1448, THE CHECK CASHING ACT OF 1993

JULY 13, 1993

STATEMENT FOR THE RECORD OF
THE AMERICAN BANKERS ASSOCIATION

TO THE
SUBCOMMITTEE ON HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS OF THE
HOUSE GOVERNMENT OPERATIONS COMMITTEE

CONCERNING
H.R. 1448, THE CHECK CASHING ACT OF 1993

JULY 13, 1993

The American Bankers Association is pleased to submit its statement for the record regarding H.R. 1448, "The Check Cashing Act of 1993." That bill establishes a limit on the fee certain persons may charge for cashing checks and requires depository institutions to cash checks issued by the United States, any State or any unit of local government.

The American Bankers Association is the national trade and professional association for America's commercial banks, from the smallest to the largest. ABA members represent about 90 percent of the industry's total assets. Approximately 94 percent of ABA members are community banks with assets less than $500 million.

EXECUTIVE SUMMARY

The provision of H.R. 1448 of greatest concern to banks is the one prohibiting banks from refusing to cash any government check if the person presenting the check is the payee of the check and the person produces sufficient identification. Penalties for a violation can amount to a half a million dollars.

ABA strongly opposes this requirement that banks cash government checks for noncustomers. The requirement will promote government check fraud, at banks' significant expense. If Congress believes that there is no fraud risk, it should be willing to indemnify banks for any losses attributable to the requirement to cash government checks.

We believe that Congress should focus on more promising programs which rely on electronic delivery of government payments instead of perpetuating a less efficient paper-based system. Such programs include direct deposit and electronic benefit transfer systems.

In addition, ABA opposes Congress mandating that private industry provide a particular service, especially without compensation. There are costs associated with cashing government checks for noncustomers, including the costs of fraud, and the government should not require banks to absorb those costs. Even if a fee were permitted, inevitably, many banks would still have to subsidize the service. Marginally profitable branches and institutions located in low income areas would be particularly harmed by the additional cost. The burden of providing the government check cashing service would inhibit opening branches and possibly encourage branch closings in low income areas.

Finally, it is important to note that, contrary to claims otherwise, the cost of bank accounts is not the reason individuals use check cashing outlets. Our own surveys and those of the Consumer Federation of America demonstrate that regular and the less expensive "no-frills" checking accounts cost substantially less than using a check cashing outlet. Most banks offer "basic" bank accounts. Moreover, many checking account outlet users maintain bank accounts.

Mandated Government Check Cashing Would Increase Bank Exposure To Check Fraud Schemes and Current Losses Would Rise Dramatically.

First, it is worth noting that according to ABA's 1992 Retail Banking Report nearly three of four banks already cash government checks for noncustomers. Second, it is necessary to explain why some banks are reluctant to cash government checks for noncustomers and why mandating government check cashing will invite fraud at the banks' expense.

Both Representative Cleo Fields (D-LA) and Representative Al Wynn (D-MD) in their statements questioned why a United States financial institution would not cash a check that the United States Government stands behind. Rep. Wynn erroneously stated, "These are government checks, backed by the full faith and credit of the federal government, and not subject to fraud." (Emphasis added.)

Unfortunately, government checks are subject to fraud and will be more so if legislation such as H.R. 1448 is adopted. The fraud risks originate not with government check recipients, but with organized criminal enterprises expert at perpetrating fraud.

Banks are reluctant to cash government checks for noncustomers for legitimate business reasons. Although there is little doubt that the United States Treasury or any valid government entity will pay properly endorsed, authentic checks, government checks are not the equivalent of cash. For instance, the U.S. Treasury will not pay counterfeit checks, checks endorsed by someone other than the payee, or altered checks. This means that the government will not reimburse

banks for a check which was stolen and falsely endorsed or a check on which the amount was altered. They will not pay banks for counterfeit checks which banks have cashed in good faith. Generally, banks today protect themselves by refusing to cash checks for people unknown to them or when they believe them to be stolen, counterfeit, forged, or altered.

While some argue that current losses to banks from uncollectible Treasury checks are low, such statistics are not reliable for gauging the bill's impact. First, they only represent losses from U.S. Treasury checks and do not show losses from state or local government checks. Second, and most importantly, they reflect the losses experienced in an environment in which banks and other check cashers may protect themselves by refusing to cash checks for strangers at their discretion. Fraud losses would be expected to rise significantly if financial institutions are deprived of such discretion and federal regulations provide a "how to" guide for criminal scam artists.

Cashing checks for noncustomers on a selective basis is a deterrent. It is a policy which discourages and makes more difficult cashing fraudulent checks. To argue that all banks should cash government checks for noncustomers because current losses are at an "acceptable level" is like arguing that polio vaccination should be discontinued because so few cases of the disease are now reported. In both instances, reason suggests that the low incidence is the result of precautionary measures taken and not a justification for dispensing with them. Without those current preventative measures on which banks may choose to rely, losses from fraudulent government checks will increase dramatically.

The legislation would establish a window of opportunity for individuals to use banks to perpetrate fraud through the pretext of cashing government checks. An individual need only present apparently valid checks using apparently authentic identification. There is no limit on the number or amount of the checks which the individual may insist be cashed. There is no ability for the bank to deny the stranger **even if it believes the check is counterfeit, forged, stolen, or altered.** When the check later proves to be uncollectible, the bank will likely never recover the unlimited amount paid out: the person has no account relationship from which the bank may deduct the amount, and the individual undoubtedly used easily obtainable false identification and is not traceable. For small banks, particularly inner city and minority ones, even a modest sized check represents a significant loss.

The proposed legislation assumes that U.S. Treasury or other state or local government checks cannot be credibly copied, counterfeited, or altered. As the attached news interview explains, however, today's color copy machines can facilitate the "perfect crime" by copying authentic checks. Similarly, a recent local radio station reported one man's attempt to cash an altered government check.

The man obtained a legitimate government check by overpaying a parking ticket and receiving a refund. He then altered the amount on the check, significantly increasing the amount. In this case, the altered amount, which exceeded one million dollars, drew attention to the check, and the man was caught. Under H.R. 1448, however, the bank would have been required to cash the check since it was a government check issued to the person presenting the check, and the bill contains no limitation on either the type or amount of check involved under its requirements. The bank would have lost over one million dollars which the government would not have reimbursed.

In addition, the bill assumes that "sufficient identification" will adequately protect banks from fraud. However, as even college students under the legal drinking age of 21 can attest, false "legitimate" identifications, such as drivers' licenses and birth certificates, are easily and cheaply obtained. Indeed, there are books available in the market offering instructions on adopting the identify of a new and fictitious person and manufacturing identifications. We can expect that the criminal use of false identifications will increase if the law requires banks to cash government checks, as the proposed legislation does not allow banks to deny services if they suspect that the identification is fraudulent.

If the government feels that there is little risk involved with requiring depository institutions to cash government checks, it should be willing to indemnify banks for any associated losses. For example, Connecticut requires banks to cash government checks, but indemnifies them for losses.

Direct Deposit and Emerging Electronic Alternatives Offer Reasonable Alternatives to Mandated Government Check Cashing.

ABA believes that if improvements to accessing government benefits are needed, the government should focus on new technology rather than perpetuating a paper-based system. There are many existing programs, and promising new ones being developed to distribute government benefits electronically. We believe that the government should focus on promoting these safer and more efficient programs. Such programs include direct deposit and electronic benefits transfer ("EBT").

Direct deposit payments into a government check recipient's account have these advantages for the recipient and the public sector:

* Recipients have immediate access to those funds. They do not have to wait for the check to arrive in the mail and then deposit it personally.

- Recipients are protected from theft of the check itself and theft of the cashed funds; this benefit is of particular value to elderly and disabled Americans. Recipients are not compelled to carry large sums of cash.

- Direct deposit encourages recipients to establish and maintain accounts and may thereby encourage savings and financial planning.

- Direct deposit is less expensive for all levels of government as well as for banks with the capacity to accept direct deposits. The Treasury estimated that the cost of delivering a paper check is 26 cents more than the cost of a direct deposit payment.

EBT offers many of the same advantages of direct deposit, but is available to individuals without bank accounts. Briefly, EBT programs rely on plastic magnetic-stripe cards and personal identification numbers. These are used to access benefits through electronic terminals such as ATMs and point-of-sale terminals in grocery stores. Recipients can receive food stamps, Supplemental Security Income, Aid To Families with Dependant Children, and other government benefits.

The Financial Management Services of the Department of the Treasury has been particularly active in promoting EBT and providing information to state and federal agencies to implement EBT programs. About thirty states have EBT programs in different stages of development. Currently, there are EBT programs operating in eight states.

Such programs have potentially enormous advantages for the recipients and the government. Recipients receive faster access to benefits, greater convenience in terms of time and locations of accessing benefits, greater security, lower costs, and, in the case of food stamp benefits, greater privacy and dignity. Participants in EBT programs have overwhelmingly reported that they prefer EBT systems to the paper-based systems. The government potentially saves from increased efficiency and less fraud. We believe that the government should invest in promoting and developing such electronic based systems, rather than perpetuating a less efficient, more fraud-prone system based on paper.

<u>Depository Institutions Should Not Be Required To Subsidize Government Check Cashing Services.</u>

H.R. 1448 does not appear to allow banks and other depository institutions to charge for cashing government checks. We absolutely oppose a Congressional mandate that banks provide a free service.

There are both direct and indirect costs associated with cashing government checks including:

* general branch operating expenses;
* operation systems expenses;
* loss of interest due to immediate cash payment;
* salaries of tellers and other personnel;
* security requirements for cash;
* vault space for cash: and
* costs associated with fraud.

In addition, banks would have to maintain higher volumes of cash to accommodate increased volume of expensive and high risk functions of a bank's operation. The bill would force banks to increase the cash available on hand to accommodate government checks, checks which may be for considerable sums of money. Holding large amounts of cash in the branch increases expenses because: 1) that money cannot be invested; 2) transporting cash requires armored cars and special guards; and 3) storing larger amounts of cash demands larger vaults and more security.

For banks located in areas with large populations of government benefit recipients or government workers, the costs of staffing overcrowded branches on government payment days could be high. Because government payments usually arrive on the same day for all recipients, branch overcrowding on payment days could severely strain the depository institutions' resources as well as create inconveniences for its regular customers, including local businesses. Some banks would have to incur additional cost to hire temporary tellers just for these days.

Banks will be compelled to subsidize the government check cashing service. This additional expense will not be borne by nonbank competitors such as mutual funds which already enjoy unfair competitive advantages. It will, however, be borne by the banks' other customers.

Even if a government-set fee were allowed, many banks would simply not recover their costs. It is virtually impossible to establish a fee which fairly represents the costs of all depository institutions nationwide. As with many products and services, costs vary greatly from institution to institution and from one geographical area to another. For example, for banks located in urban areas

with large populations of government workers or government benefit recipients, the costs of staffing overcrowded branches on government payment days may be far greater than for other depository institutions. And, we can expect that losses attributable to fraud will vary markedly from institution to institution. Even if it were possible to account for all the bank cost elements of providing the service, basing a fee on an "average" cost, for example, will, by its very nature, mean that some depository institutions will be losing money on the government check cashing service.

Any "reasonable" fee proscribed by regulation and based on a particular bank's facts and circumstances immediately raises all the problems of pricing calculations and cost allocations inherent in any system of flexible price controls. Americans have opted for a market economy to avoid the distortions, inefficiencies, and costs which accompany such controls and have only accepted them for brief periods during national crises. Even then, they are difficult and expensive to enforce and generally produce unanticipated and unwelcome economic side effects.

Absorbing the Costs of Government Check Cashing Would Threaten the Viability of Marginally Profitable Branches, Particularly Those Located In Low Income Areas.

The additional expenses incurred by banks for providing government check cashing services will most significantly affect those branches which are located in low income areas where demand can be expected to be high and which may already operate at a loss or at only marginal profitability.

The National Bankers Association, a trade association representing minority and women-owned banks, related its concerns in hearings before the Senate Subcommittee on Consumer and Regulatory Affairs in May, 1989 that the burden of mandatory government check cashing would affects its members in particular:

> The burden of employing and training additional tellers to accommodate . . . the increased number of government issue check cashing customers would be borne most heavily by minority-owned institutions simply because they serve low-income neighborhoods. These same institutions, which often operate on very thin profit margins, can least afford to absorb the additional costs.

These effects would be even more severe under H.R. 1448 given its wide-open mandate and requirement for the provision of free services.

Thus, contrary to the intent of the legislation, the proposed legislation will inhibit the opening and retention of branches in low income neighborhoods due to the burden of providing these uncompensated and fraud-prone services. Rather than assisting those living in low-income areas as the bill intends, the availability of financial services will be lessened for many low-income Americans.

The Reasons For Using Check Cashing Outlets Stem From Reasons Other Than Lack of Availability or High Cost of Bank Accounts.

It is important to understand that, contrary to baseless claims made by the Consumer Federation of America ("CFA") in its statement on the bill, the reason individuals use check cashers is generally not the cost of a bank account. On page four of its testimony, CFA states that" [B]anks have often simply priced these consumers right out of the lobby through prohibitive minimum balance requirements and exorbitant account maintenance fees." This statement is misleading. For example, even CFA's own June, 1993 study of bank account fees concludes that it is cheaper to use a bank than a check casher.

According to CFA's study, (notwithstanding the many flaws in its methodology, conclusions and recommendations) the average national monthly fee for a regular checking account, assuming that the balance requirement is not met, is $5.82. The fee is usually waived if the balance requirement is met. Such accounts include unlimited check transactions. With the average check printing fee it found of $11.22, this amounts to $81.06 per year. This is significantly less than the nearly $400 per year spent using a check cashing outlet and money orders quoted by CFA in its testimony. CFA based that number on an article by John Caskey which also concludes:

> The cost of obtaining similar services from a bank would be somewhat less, according to a 1990 national survey of bank fees by the Consumer Federation of America (1990) . . . Regardless of the type of account maintained, it appears a family would save significant out-of-pocket costs by conducting its financial transactions through a bank rather than a check cashing outlet.[1](Emphasis added.)

In addition, ABA's own survey, based on a broader and more reliable cross-section of banks than the CFA study, concludes that both regular checking accounts and the less expensive "no-frills" or basic bank accounts are substantially cheaper than using a check-cashing outlet. A basic bank account is usually a low-

[1] "Check Cashing Outlets in the U.S. Financial System, "Economic Review, November/December 1991, p. 59

cost or free account. The number of free transactions may be limited. For example, most allow ten free check transactions per month, but charge for additional ones.

Basic banking accounts are widely available: about eighty eight percent of the largest banks offer a basic bank account. The median fee charged on a basic bank account ranges from $2.40 and $2.50 (depending on the size of the bank). This amounts to $30 or less per year plus the cost of check printing. Thus, for less than $1 per week, low-income Americans can readily obtain an insured bank account which meets both their check-cashing and check-writing needs.

Regular checking accounts are more expensive than basic bank accounts, but significantly cheaper than a check cashing outlet. For the majority of banks charging a monthly fee, the median monthly fee for a regular account is between $5.00 and $5.50 (depending on the size of the bank). In most cases, this fee is avoided if a minimum balance is met. This amounts to $66 or less annually plus the cost of check printing. Thus the costs of both regular bank accounts is significantly less than the $400 annual cost cited for using a check cashing outlet.

ABA also believes that CFA's statement that "minimum balance requirements" force some individuals from banks is misleading. We are not aware of any bank that closes regular bank accounts because an account falls below the minimum balance requirement. Rather, the minimum balance requirement is used to determine whether a fee will be imposed that month. Obviously, if the balance routinely falls below zero (i.e. is overdrawn), the bank justifiably and prudently may seek to close the account.

Individuals using check cashing outlets use them for reasons other than the cost of a bank account. Indeed, according to surveys done by the Consumer Bankers Association and the National Check Cashers Association, Inc., between 60% and 70% of individuals using check cashing outlets already have a bank account. These individuals are able to deposit checks and withdraw cash without additional charge. They must receive funds from government checks on the day after deposit pursuant to the Expedited Funds Availability Act. Thus, many could avoid paying check cashing fees, but choose not to.

Studies have shown that those who do not have bank accounts choose not to have an account for a variety of reasons unrelated to the cost of an account. For example:

* comfort with their present personal cash management system;

* perceived inability to manage a checking account and know its current balance;

* preference or need to deal with cash;

* fear of overdrawing an account;

* perceived simplicity of the check cashing and money order system compared to bank account;

* desire for close, personal control over money and/or lack of familiarity with banks;

* illiteracy and innumeracy; and

* lack of minimal fluency in English.

Allegations that the reason some people use check cashing outlets is because bank accounts are too expensive are simply wrong. They ignore the actual fees of regular accounts as well as the inexpensive and widely available basic bank accounts. Moreover, minimum balance requirements do not discourage opening or maintaining accounts. They are used to determine whether to impose a monthly fee. They are not the basis for closing regular accounts unless the balance routinely falls below zero.

Conclusion:

ABA appreciates the opportunity to submit our statement. We believe that banks and other financial institutions should meet the basic financial needs of all Americans. However, we strongly oppose any government mandate that banks cash government checks for noncustomers without charge. Contrary to many individuals' understanding, government checks are not "guaranteed" and can be the subject of fraud. They can be counterfeited, altered, copied, and stolen. Mandating that banks cash them will encourage such fraud at the banks' expense. If the government truly believes that there is little risk of fraud, it should indemnify banks for all losses.

In addition, many banks invariably will have to subsidize the services, even were they permitted to charge a fee. Marginally profitable banks and those in low income areas will be most hurt.

Finally, we strongly believe that Congress should focus on electronic alternatives such as direct deposit and EBT to improve access to government benefits. Such programs are generally less expensive and prone to fraud, and more efficient, safe, and convenient.

HEADLINE Counterfeiter's Best Friend -- Color-Copying Technology
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Color-copying machines can turn out perfect copies, and those perfect copies can turn into the perfect crime. From checks to money orders to cash, the color copier is becoming the counterfeiter's best friend.

GUEST(S): CLINT HOWARD; ALBERT BELISLE; BENJAMIN BRYANT; BOB BILLEZA; SUSAN FORTUNATO; STUART ABOLSKY; JOHN GREGORY; DAVID FARR; WILLIAM MARINO

Counterfeiter's Best Friend -- Color-Copying Technology

DONNA KELLEY, Anchor: You know, today's color-copy machines can turn out perfect copies, and that can turn into the perfect crime.

BOB CAIN, Anchor: From checks, to money orders, to cash, the color copier is becoming the counterfeiters best friend, and losses are running into the millions.

CNN Special Assignment Correspondent, David Lewis, has our Monday Report - Copying Crime.

DAVID LEWIS, Correspondent: How would you like to be able to print your own money? Or, print your own paychecks - as many as you want? And, traveler's checks - money orders - bank cashier's checks - even, print your own tax refund? It's illegal, but it can be done at the push of a button. This marvel of modern counterfeiting - a color photo-copying machine.

CLINT HOWARD, U.S. Secret Service: Anything that's out there can be copied with these machines.

ALBERT BELISLE, Bank of Boston: Color copiers make reproductions- you can't tell the original from the copy with the naked eye.

BENJAMIN BRYANT, Asst. U.S. Atty.: If you have the machine, you put the money on top of it, push the button, and you've got money -counterfeit money.

LEWIS: It's the crime of the nineties - the latest in high-tech, high-stake counterfeiting. And, it's costing banks, businesses, all of us, many millions of dollars. Just how much, no one will say. That's a banking secret.

COURTROOM BAILIFF: {announcing the case next on the docket} People v. John Phillip Kennedy {sp}.

LEWIS: Meet John Kennedy - a failure as a drug dealer who found he could make more money with a color copier.

Kennedy bought a handful of traveler's checks, and ran off a half-million dollars worth of copies.

ROB VILLEZA, Asst. U.S. Atty.: All these copies were found in the print store the evening of the arrest.

LEWIS: How good were these?

Mr. VILLEZA: They were quite good. {film clip of checks} This is the genuine traveler's check. This is the counterfeit sheet. It's a very good quality check.

JUDGE: {spoken to John Kennedy} The court accepts your plea of guilty.

LEWIS: Kennedy, the son of the man who started Discover Card, ran off the traveler's checks - first at an all-night copy shop, then at another print shop in Santa Monica, California.

Mr. HOWARD: The machine was running as we entered the establishment.

LEWIS: Still turning out the traveler's checks?

Mr. HOWARD: Still turning out the traveler's checks.

LEWIS: {film clip of cashier's checks} Also seized when agents burst in on Kennedy - this stack of bank cashier's checks - just as good as cash. A single $10 check had been cloned so many times the copies were worth almost $1 million.

Mr. VILLEZA: The hand-written information that was on the original check had been whited-out, and then they turned around and made copies on the laser copier, which came out quite good.

LEWIS: And, they can fill these in for whatever they want?

Mr. VILLEZA: Any amount that they want.

JUDGE: {speaking to John Kennedy} Mr. Kennedy, based upon the agreed terms-

LEWIS: -The Secret Service, which handles counterfeiting crimes, caught up with Kennedy only when another crook turned him in.

JUDGE: {spoken to John Kennedy} The court sentences you to four years in state prison.

LEWIS: With counterfeiting made simple by science, losses are * soaring. A study by the American Bankers Association says new technology has exposed the industry to greater risks of check fraud and losses than ever before.

{film clip of signs from copy shops} The modern magic of color copiers and laser printers can be found on almost any corner. These are signs of a counterfeiter's paradise.

{spoken to Clint Howard} How do you stop it?

Mr. HOWARD: I don't know that you can.

LEWIS: {film clip of $50 bill} Look at this fake $50 bill, now in the files of the Secret Service in Washington.

SUSAN FORTUNATO, U.S. Secret Service: This note is very good, and I don't- it's very difficult for me to tell if it is, in fact, a copy or-

LEWIS: -In this case, there's no record of any arrests. {film clip of tax-refund checks} Look at these tax-refund checks cashed in Los Angeles. Look closely - they all have the same serial number. They're copies.

How do fakes slip through banks so easily? No one is really watching. Your checks are read by high-tech machines, not by human eyes. {film clip of bottom of a check} This is the bottom line on a check - numbers written in magnetic ink to tell computers whose account it is.

Clerks punch in the amount down in the corner of every check, but no one stops to take a long, hard look at each little piece of paper.

Example - in Miami, a $20 refund on a speeding ticket was mailed to a motorist in South America. When it came back to the bank -

STUART ABOLSKY, Miami Detective: The check now had a new amount of $1,450,000.

LEWIS: {film clip of two checks} This is the original refund. This is the copy that came back. Not only was the amount changed, even the color was different. Yet the check cleared the bank, and the money was on its way out of the country when it was stopped.

{spoken to Stuart Abolsky} You came how close to losing $1.5 million?

Mr. ABOLSKY: Very close. Very close.

LEWIS: Desk-top computers are making the problem worse. This is what worries banks the most - using computers to increase the amount on checks, and then, print copies.

{film clips of newspaper, and then a man at home with a computer} To this New York newspaper, this man, with a computer business at home, was a success story. Little did they know how.

JOHN GREGORY, U.S. Secret Service: {film clip of money order} This is a counterfeit money order. He made them out for $1,000 in denomination.

LEWIS: With a computer, a scanner, a printer - agents say the man ran off $250,000 in money orders.

Mr. GREGORY: And, an image of the money order would appear on the screen.

LEWIS: Yes.

Mr. GREGORY: And, it would print out the counterfeit money orders.

LEWIS: In an age when technology has put temptation at everyone's fingertips, law and order has become a 'Star Wars' contest fought by business and government, and science and computer

labs.

The government has found one solution - there's a safety strip hidden in most new bills from 10s up to 100s.

Mr. GREGORY: {film clip of bill being held up to the light} The light comes through from the back.

LEWIS: Hold a new 50 up against the light, and you'll see this - the strip cannot be copied on a machine.

Here's another solution at this check-printing company in Ohio - Standard Register. {film clip of checks with the word 'void' on them} It can hide the word 'void' on checks in a way that will show up when any photo copy is run off.

And, Canon - the giant of color-copier companies - is now hiding a secret serial number in each copy that comes off its newest machines.

DAVID FARR, Gen. Mgr., Canon, U.S.A.: {film clip of copies coming off of a copy machine} We can tell exactly by the serial number of the machine which machine it was, and the location of that machine.

LEWIS: Even so, this is a never-ending battle.

WILLIAM MARINO, Bank of Boston: There's really no way to stop it 100 percent because there's always someone willing to take it to the next step.

LEWIS: You would think that technology does have its limits. But, some things - the sunset in Santa Monica, for example - simply cannot be copied. {film clip of copies of photograph of Santa Monica sunset} Or, can they? Is nothing sacred? Nothing safe?

I'm David Lewis, CNN Special Assignment.

KELLEY: And, a quick footnote to this report for those who might need a little help in resisting temptation. The Secret Service says the bottom line is - you get caught - you go to jail.

CAIN: To contact CNN Special Assignments, write to P.O. Box 2727, Atlanta, Georgia, 30301. For transcripts call 1-800-TALK SHO.

DE Updated: YY93 MM06 DD25
White-Collar Crime; Science & Technology;
BOB CAIN; DAVID LEWIS

End of Story Reached

NEW YORK TIMES 3-18-93

5th Avenue Forgers

Mystery Couple Held in Check Fraud

By SELWYN RAAB

Her current name is Lilly Schmidt.

But even though she has been convicted of trying to engineer her prison escape from Rikers Island by arranging to have two Federal agents killed, and even though she is being held in a Federal jail, the authorities know virtually nothing about her real identity. Nor do they know what she and a partner did with almost $1 million they are accused of fleecing from Manhattan banks, boutiques and art galleries — the charges that orginally landed them in Rikers.

What Federal and city investigators do know, they say, is that Ms. Schmidt and her former partner, Leonard Steingard, were master forgers and incomparable impersonators of military and military intelligence officers.

For six months in 1991 and 1992, the couple, dressed in Brioni suits and sable furs, glided about midtown Manhattan in chauffeured limousines and walked off with $500,000 to $1 million from banks, foreign exchange firms, jewelers and exclusive shops, the authorities said. During one weeklong shopping spree, they struck for $300,000 in cash, foreign currency, jewelry and clothing, according to a Federal indictment.

'She Was Top of the Line'

Their favorite ruse, investigators say, was counterfeiting certified checks, and they used two bogus $70,000 checks to obtain an original Claude Pissarro oil painting and a sable coat.

"Their techniques for counterfeiting documents and impersonating military personnel to get the checks passed were the best that a lot of us have ever seen," said Kenneth R. Connaughton, a Defense Department investigator.

Heidi Neuhoff, the owner of an art gallery at 999 Madison Avenue at 77th Street, recalled how Ms. Schmidt coolly handed her a $70,000 check in February 1992 for Pissarro's "Maison à Arronches."

"They were both exquisitely dressed, with the finest jewelry, and as smooth as could be," Ms. Neuhoff said recently. "It's the only time I've ever gotten a certified check that bounced."

The authorities say that Ms. Schmidt was the mastermind of most of the confidence schemes. "She was top of the line," said Lieut. Richard J. Molloy, the head of the Police Department's Special Frauds Squad.

But Ms. Schmidt, in a tearful plea last week, said she had been framed by corrupt prosecutors and investigators and by Mr. Steingard, whom she said she once loved.

"It was all his ideas," she said, referring to Mr. Steingard in an interview in the Metropolitan Correctional Center on Friday.

Mr. Steingard, who like Ms. Schmidt is being held without bail at the same Federal jail in lower Manhattan, declined to be interviewed.

Law-enforcement officials say that even they were victimized. They said that Mr. Steingard, while carrying out frauds, duped the Federal Bureau of Investigation into believing he was working for them as an informer.

He also bailed Ms. Schmidt out of Rikers Island with a fake $30,000 certified check when she was arrested under a different name.

Lieutenant Molloy said that in January 1992, his unit was flooded with complaints that fake certified checks were being passed at midtown banks and expensive stores. In each instance, a woman described as blonde, stylishly dressed and with a European accent cashed the fake checks at banks or used them to pay for jewelry and other costly items.

Lieutenant Molloy said the woman sometimes used the name Monica Morgan and described herself as the president of Morgan International Finance with offices at 666 Fifth Avenue and 53d Street. Morgan International was traced to a mail drop and answering service at the Fifth Avenue building.

9 Different Federal Names

A woman who identified herself as Monica Morgan was arrested on Jan. 10, 1992, when she picked up a package for Morgan International. Detectives said she had nine Federal identification cards bearing different names, with her photograph on each of them. The cards identified her as a member of United States Army Intelligence, Defense Department Intelligence and the State Department, and as the wife of an Army colonel.

The detectives also found false documents that Monica Morgan had a $200,000 line of credit at American and Swiss banks. Lieutenant Molloy said the woman is believed to have used laser printers and embossing machines to produce the fraudulent identification badges, the letters of credit and the certified checks.

A week after Monica Morgan's arrest, a lawyer retained by Mr. Steingard posted her bail with the forged certified check that Mr. Steingard had provided, the authorities said.

Escaping From Napoleon

And after her release, she and Mr. Steingard defrauded 10 banks and merchants of $350,000 in cash, foreign currency, jewelry, art objects, furs and clothing during the week of Feb. 7, 1992, the Federal indictment says.

NEW YORK TIMES CONT'd

On Feb. 25, 1992, Ms. Schmidt was shopping with Mr. Steingard for a $7,000 suit at Napoleon, a men's store in Trump Tower at Fifth Avenue and 57th Street, when a store security officer recognized her from a wanted poster of the confidence woman and detained her. Mr. Steingard, the police say, escaped by hijacking a taxi at gunpoint on Fifth Avenue.

Federal agents arrested Mr. Steingard several days later when he tried to sell the Pissarro painting to an undercover F.B.I. agent. He was caught in a white stretch Lincoln that was being chauffeured by a moonlighting New Jersey state trooper.

Federal officials said Mr. Steingard had worked as an F.B.I. informer since 1990, when he was arrested on charges of trying to sell $41 million in counterfeit cashier's checks. But those charges were not prosecuted because the authorities thought he was cooperating and were unaware of his latest string of frauds.

Spy in Bulgaria, She Says

Mr. Steingard and Ms. Schmidt were indicted on Federal charges of fraud and impersonating Federal employees, and Ms. Schmidt was indicted on state charges of grand larceny.

Mr. Steingard, 59, grew up in the Bronx and once listed his occupation as a musician. He is divorced and the father of six children. Court records show that he was convicted in the early 1960's on state charges of fraud and served five years.

Investigators say Ms. Schmidt's background is murky. She claims she was born in Bulgaria and is 40 years old, but it is unclear from Federal records when she entered the United States and from which country.

Ms. Schmidt said in the interview that the confusion about her names stemmed from her six marriages. Her past was further clouded, she insisted, because she had been a spy in Bulgaria for the United States. She declined to give the full names and addresses of her former husbands or details of her previous arrests.

After her second arrest, in Trump Tower, the authorities said she offered two Federal agents posing as underworld hit men $300,000 to kill Mr. Connaughton and another Defense Department investigator when they took her to a court hearing in Manhattan.

She was convicted on March 5 in Federal District Court in Manhattan on charges of attempted escape and solicitation to commit murder. She faces up to 45 years imprisonment when she is sentenced on June 18, said Robin Abrams, the Federal prosecutor. She has pleaded not guilty to the Federal fraud and impersonation charges and state grand larceny charges and is awaiting trials.

Mr. Steingard pleaded guilty to all the Federal charges and could be sentenced to a maximum of 10 years at a hearing on March 30.

"Most of the stuff they got away with is still out there, and we don't have a clue to where it is or know who she really is," Mr. Connaughton said.

At the Correctional Center, Ms. Schmidt chafed at the descriptions of her being a mysterious confidence artist and having hidden caches of stolen money and jewelry. "I'm a refugee lady, and I would not be in this trouble if I could afford good lawyers," she said.

Inmates' Money Order Scam Stinging Banks Around the U.S.

By BILL ATKINSON

The U.S. Postal Service is warning banks of a money order scam being run from the Mississippi State Penitentiary.

Last year, banks lost nearly $2 million by cashing altered money orders from inmates in the Parchman, Miss., prison.

"It's virtually a cottage industry," said David Higginbotham, a postal inspector based in Memphis. "Banks in all 50 states have been victimized by it."

How It Works

Mr. Higginbotham said the scam has been in operation for years, but last fall the number of bogus money orders entering banks surged to 500 a month. The pace has since dropped to 100 a month.

Here's how a convict can loot a bank: A visitor gives an inmate a money order worth $1 to $5.

The face value of the money order is then altered using bleach, a simple cut-and-paste technique, or word processors and dot matrix printers available in the penitentiary.

The inmate then persuades an unsuspecting pen pal to deposit the money orders in his bank account.

People are duped into depositing bogus orders, then withdrawing cash.

Days later, the inmate asks the pen pal to withdraw the funds from the account and mail them to a friend on the outside.

Seniors Targeted

Mr. Higginbotham said inmates typically target elderly women and make up stories that they have been unjustly convicted.

They also say the funds are urgently needed to pay attorneys' fees.

"The bank has no reason to question her," Mr. Higginbotham said. "She has been a loyal customer."

Once the funds are withdrawn the banks have little recourse except to sue the customer. But cracking down on an elderly woman duped by a convict doesn't play well in the local media, Mr. Higginbotham said.

Too Little, Too Late

To stop the flow of bogus money orders from entering banks, Mr. Higginbotham travels to institutions to teach tellers how to recognize the altered paper.

But "banks don't request us to come out until they are victimized," he said. □

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